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SEASONAL FARMWORKER POWERLESSNESS

HEARINGS

BEFORE THE

SUBCOMMITTEE ON MIGRATORY LABOR

OF THE

COMMITTEE ON LABOR AND PUBLIC WELFARE

UNITED STATES SENATE

NINETY-FIRST CONGRESS

FIRST AND SECOND SESSIONS

ON

BORDER COMMUTER LABOR PROBLEM

MAY 21, 1969

PART 5–A

Printed for the use of the Committee on Labor and Public Welfare

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Format of Hearings on Migrant and Seasonal Farmworker Powerlessness

The Subcommittee on Migratory Labor conducted public hearings in Washington, D.C., during the 91st Congress on "Migrant and Seasonal Farmworker Powerlessness." These hearings are contained in the following parts:

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Part 2: The Migrant Subculture	July 28, 1969
Part 3–A: Efforts to Organize	July 15, 1969
Part 3–B: Efforts to Organize	July 16 and 17, 1969
Part 4–A: Farmworker Legal Problems	Aug. 7, 1969
Part 4–B: Farmworker Legal Problems	Aug. 8, 1969
Part 5–A: Border Commuter Labor Problem	May 21, 1969
Part 5–B: Border Commuter Labor Problem	May 22, 1969
Part 6: Pesticides and the Farmworker	Aug. 1, Sept. 29 and 30, 1969
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MIGRANT AND SEASONAL FARMWORKER POWERLESSNESS

(Border Commuter Labor Problem)

WEDNESDAY, MAY 21, 1969

U.S. SENATE,
SUBCOMMITTEE ON MIGRATORY LABOR OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D.C.

The subcommittee met at 9:40 a.m., pursuant to call, in room 2228, New Senate Office Building, Senator Walter F. Mondale (chairman of the subcommittee) presiding.

Present: Senators Mondale (presiding), Kennedy, Cranston, Murphy, and Schweiker.

Committee staff members present: Robert O. Harris, staff director of full committee; Boren Chertkov, majority counsel; A. Sidney Johnson, professional staff member; and Eugene Mittelman, minority counsel.

Senator MONDALE. The meeting of the Migratory Labor Subcommittee will come to order.

This morning the Migratory Labor Subcommittee begins a series of hearings on migrant and seasonal farm labor problems in the United States.

The theme for the hearings will be powerlessness. The subcommittee will examine the depth of powerlessness among migrants and the reasons for this powerlessness.

Our hearings will explore the extent to which migrant workers are powerless to influence decisions in both their home base communities and in so-called user States. We will examine the degree to which, and the ways in which, migrant and seasonal farmworkers are deprived of political power, deprived of economic power, deprived of cultural identity and pride, deprived of rights and privileges that most Americans take for granted.

We will consider the extent to which the migrant and seasonal farmworker is powerless to affect his own unemployment and underemployment, powerless to fight job displacement, and powerless in union or community organization efforts to improve his living and working conditions.

In this week's hearings we begin our inquiry into powerlessness by examining the scope of the border commuter labor problem, and its broad nationwide economic impact. This problem area appears to illustrate one way in which powerlessness is imposed on migrant and seasonal farmworkers.

Every morning thousands of campesinos come across the border from Mexico into Texas, Arizona, and California to work in our

fields. They obtain entry into the United States by displaying either a form I–151—permanent alien registration card, commonly referred to as a green card—or a certificate showing a U.S. birthplace, or a temporary 3-day visa (white card), or a baptismal certificate. Large numbers of illegal entrants are also coming across the border to perform farmwork.

Senator Edward M. Kennedy, of Massachusetts, a member of this subcommittee, maintains a special interest in the commuter problem that we are considering this morning. He has again in this Congress introduced legislation (S. 1694) which would amend the Immigration and Nationality Act to refine the commuter labor system by requiring that every 6 months the Department of Labor certify that the presence of a commuting green card holder in the United States to seek or continue employment does not adversely affect the wages and working conditions of American workers similarly employed. Senator Kennedy's bill would also remove the present exclusion of the agricultural industry from the provisions making it a criminal offense to willfully and knowingly employ aliens who are in the country illegally.

It is my understanding that the Judiciary Committee, which has legislative jurisdiction in this area, and on which Senator Kennedy serves, will be holding hearings on S. 1694.

The purpose of our hearings this week is to gain an understanding of the impact that the border commuter labor problem has on migratory and seasonal farmworkers specifically. Our hearings will explore the extent to which commuter problems illustrate and explain the social and economic deprivation—and the powerlessness—faced by migrants.

To do this, we need to understand the legislative and administrative background that permits these border crossings, and more importantly, the effects of the border commuter labor. We need to know the extent to which the availability of border commuters depresses the living and working conditions in the United States, the extent to which it explains the fact that border areas resemble the 1930's depression economy, and the extent to which it causes U.S. citizens to migrate north in a desperate search for work.

Border commuters are allowed indiscriminately to work in the American economy and take their wages back to the low-cost Mexican economy. These hearings will seek to discover the degree to which the availability of this low-wage work force undermines the wage standards of migrant and seasonal farmworkers throughout the country, damages their job opportunities, and their organizing and collective-bargaining efforts.

Following an examination of the border commuter labor problem, we look forward to hearings on a number of other subject areas that will further define and describe the problem of migrant powerlessness. Additional hearings will study and investigate—

Who migrant and seasonal farmworkers are, why they migrate and what their plight is, described in their own words;

What the nature of the migrant subculture is, and what the effect of migrancy on the child is;

What the nature and scope of the rural employment and manpower problem is;

What efforts toward community and union organization have been made, and why they have succeeded or failed;

What the effect of pesticides on the farmworkers is;

How extensive racism, discrimination, and the denial of civil rights in rural areas is;

What the limitations of current Government service programs, and social and worker benefit programs are;

And finally, what the future of migrant and seasonal farmworkers is.

And so today we began this series of hearings on powerlessness; and we begin with a discussion of the border commuter labor problem.

We have a most distinguished panel of witnesses.

We are pleased this morning to have as our lead witness the distinguished Congressman from Michigan, James O'Hara, who has shown a great interest in this particular issue, and who serves on our companion committee in the House, the House Committee on Education and Labor.

He has shown not only interest, but a great deal of creative concern, about the problems of the farmworkers and migrants of our country. Congressman O'Hara.

STATEMENT OF HON. JAMES G. O'HARA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. O'HARA. Mr. Chairman, thank you very much.

Let me first congratulate you for taking the initiative in these hearings, and examining the several aspects of this problem of powerlessness. Powerlessness is certainly much broader than the simple subject of inclusion of farmworkers under the National Labor Relations Act, or broader even than the particular subject of today's hearing, which is the nature and extent of the competition for jobs and impact upon the domestic labor market of commuter labor, particularly in the field of farm labor.

I would like to address myself to two particular facets of the problem for the moment, particularly the latter.

First, Mr. Chairman, I think I ought to report to you that following our conversations in the Imperial Valley and on the road between El Centro and Calexico, and in Calexico on Sunday——

Senator MONDALE. Let the record show that Congressman O'Hara is referring to the visit that he, Senator Kennedy, Senator Yarborough and I made to the Imperial Valley of California last week.

How are your feet?

Mr. O'HARA. My feet are in good shape. Mr. Chairman.

After your departure at the airport, as I returned to Calexico, we clocked the distance, and I can report to you that we marched 5 miles, give or take a tenth or two.

Senator MONDALE. I thought it was 25.

Mr. O'HARA. I think if you multiply that by the factor of heat, it would turn out to be about 25.

Following that, Mr. Chairman, I went, as I indicated to you I would, and following your example of several months ago to the border. That night at 2 a.m. I arose and went to what they call the Calexico "hole," the hole at the border where commuters enter and leave, the border- crossing point.

I watched the commuting farmworkers come across the border having their credentials checked. I went to the border to those places

where farm labor is recruited by the labor contractor, by the crew boss, or the crew leader, and transported to farms in the Imperial Valley or in the Coachella Valley.

I went to the offices of the Farm Labor Division of the California Employment Service, which are located near the "hole," and are open from 3 to 4 a.m. to assist in the recruitment of day haul labor for the fields of the Imperial and Coachella Valleys.

I talked to a number of labor contractors and a number of workers who had entered the United States that early morning from Mexico in an effort to find work for that day.

I agree with you that the impact of the commuter laborer upon the entire situation is very, very great. It poses a very difficult problem, because, of course, the simple way to attack the problem would be to merely say, "Well, we won't let these people in any more. We will cut off this flow."

But I talked to some of these workers, Mr. Chairman, who had been coming and going for 15 to 20 years, and who have been working in the fields of the Imperial and Coachella Valleys all that time, who were raising families and had six, seven, eight, nine children. One of them, Mr. Chairman, was a man who had gotten his visa for permanent residence and who had come to the United States and who had found that he couldn't support his family in the United States on the amount of money that he made as a farmworker, who then moved his family back to Mexico and became a commuter.

That is, when he received his visa, he had every intention of becoming a permanent resident of the United States, but he found he couldn't do it.

Senator MONDALE. So, in effect, he lived in Mexico, where the cost of living is substantially reduced, and made his living in the United States.

Mr. O'HARA. That's right.

Senator MONDALE. And had commuted in that fashion for years.

Mr. O'HARA. Exactly, and there is much to be said for the theory that these people are as much a part of the labor market and the farm labor force, and have this longstanding attachment to it, as one who commuted the same day, perhaps, who got his visa the same day, 8, 10, 15 years ago, and who managed to create a permanent residence in the United States.

But another thing, after that statement of the complication of this problem and the difficulties that would be created for many, many persons with long attachment to the farm labor force, if we were to simply cut off the opportunities that they now enjoy to work in agriculture in the United States, let me make another point, and that is that the flow of such commuters must be reduced somehow.

I would very strongly suggest, Mr. Chairman, that you give consideration to approaching this problem from several standpoints.

First, I think that from this date henceforward, we ought to say that an alien who applies for and obtains a visa for permanent residence in the United States, who fails to establish such permanent residence, or who fails to maintain his principal place of residence in the United States during the time of the visa, that he will, in effect, lose his visa.

Senator MONDALE. Is it your understanding today that the regulation now in effect requires that?

Mr. O'Hara. It is my understanding that green carders who have obtained their visas since 1961, who are entering and leaving, must obtain certification at regular intervals that their entrance for the purpose of employment does not depress the conditions of labor.

Senator Mondale. That is different than the permanent residency provisions?

Mr. O'Hara. Yes; those are the commuters.

I am not aware, Mr. Chairman, if commuters must maintain their residence in the United States.

Senator Mondale. Your first recommendation is the permanent residency requirement.

Mr. O'Hara. Yes. The second recommendation I have is that we find some way to make it an unfair labor practice for an employer involved in a labor dispute to replace employees who are involved in that labor dispute with nonresident aliens.

Senator Mondale. That is a position which I think has a great deal of merit. I can't imagine any modern industrial plant that is unionized that would have been unionized if it had been exposed to the limitless supply of desperately poor labor from Mexico willing to be used as strikebreakers.

The farmworkers have often proclaimed that in their efforts to organize certain table grape growers, each time they call a strike, even though they have a majority of the members working in the field, they pull their people out of the fields and the next morning all those jobs and more are replaced by Mexican farmworkers who have been hauled up from the border to the scene of the strike. By the next morning the strike is over insofar as the employees are concerned.

Would you say, based upon your observations, that that could happen?

Mr. O'Hara. No question about it, Mr. Chairman. I think one of the great obstacles to conducting an organizational drive and obtaining collective-bargaining agreements in agriculture in those areas in close proximity to the border of the United States especially, and to a lesser extent in areas somewhat removed from the border, is the availability of a ready supply of labor that can be used to replace those who are conducting a work stoppage in an organizational effort.

Mr. Chairman, we had considered saying, "You can't employ nonresident aliens if you are engaged in a labor dispute."

But I rejected that idea, because perhaps it is a nonresident alien who has been working for that grower for 5 years—a regular part of the work force who should be treated no different from one who lives down the road a ways.

But in terms of hiring as replacements for workers who are not in the field because of a labor dispute, I think that clearly, there, we ought to make that an unfair labor practice.

I would recommend, Mr. Chairman, if we do so, that we provide the same kind of mandatory injunction and extraordinary relief provisions that are now provided under section 10(k) or is it—10(f) or 10(l)?

I don't have it before me.

Senator Mondale. I know, but I am not going to help you out. [Laughter.]

Mr. O'Hara. The provisions that say when a complaint was made that there is a violation of this new subparagraph of 8(a), that an

immediate investigation shall be made, and if it shall appear that the the complaint has merit—you don't have to go out and establish it—you shall immediately be able to apply for, and obtain, an injunction.

Senator MONDALE. The point is to provide an immediate remedy.

Mr. O'HARA. That's right. Otherwise, it is no good. The harvest season is the only time there is a great need for labor in the fields. The harvest season is very short. The question would be moot very quickly. So I would recommend that.

Finally, I think, Mr. Chairman, and most evidently what we need to do for the long-term health and success of this industry, grower and worker alike, is to apply the same rules and regulations, the same modus operandi that has been applied to all U.S. industry and labor under the Wagner Act, the agriculture industry.

I think that is the great need, and I would strongly suggest that we do that.

In closing, Mr. Chairman, let me report to you a very recent development in the grape boycott. My wife, who is my mentor in these matters, reports to me that in her visit to the Giant Supermarket yesterday she found grapes on the counter labeled "imported African Valencia grapes," 49 cents a pound.

She said they were not only imported African Valencia grapes, but came in wrappers that said "Safco, Chile," and in boxes from California. [Laughter.]

Senator MONDALE. That must be a very tired and neurotic grape. [Laughter.]

Mr. O'HARA. It is a well-traveled grape, Mr. Chairman, that we now find on our market shelf.

Senator MONDALE. Perhaps you could describe a little bit more than you did in your opening testimony what you saw on the border, which I assume to be a rather typical morning, because they didn't know you were coming, and you were just there to see who came across. What kind of indications of legitimacy in terms of entrance into the American labor market did commuters have?

Could you tell us something about the number of persons, about the indications of citizenship, or green-card status, or baptismal certificates, and so forth, that were accepted by the Immigration officials?

Mr. O'HARA. Mr. Chairman, I was out on this sort of inspection tour between 2 a.m. and 4:30 a.m. At that time, the people coming across the border are almost entirely those who are farmworkers. It is not until later in the morning that the town workers, as it were, commuting town workers are coming across the border.

At this hour, it is almost entirely farmworkers who are hoping to make contact with a crew leader or who have a regular foreman that they have an ongoing relationship with, who have to be transported some distance before they are at the fields at which they are going to work, and who want to be in the fields by dawn.

So with that qualification, I will describe to you the kind of credentials presented by them and the kind of people I saw coming across.

They were men and women of all ages, really, from about 16 or 17 upward into the sixties. At the time I was observing their passage, almost all of them, I would say 90 percent, were presenting green cards, so-called green cards, as their credentials for passage.

The Immigration inspector would, if any of the green cards looked somewhat discolored or had anything odd about their appearance, the inspector would stop, take the green card, and try to determine if it was legitimate and genuine by a quick visual examination and an examination by touch with the fingertips.

He said that there was a considerable problem at that point in the border with forged credentials.

Senator MONDALE. Forged credentials were a serious problem?

Mr. O'HARA. He said it was a serious problem at that particular point.

Of those who did not have green cards, there were several types of documents. First, a Mexican passport with a visa stamped in it was sometimes presented, with a picture of the holder of the passport.

Senator MONDALE. Would that be a Mexican citizen?

Mr. O'HARA. Yes, who had a visa for admission into the United States and was showing that. They would accept that.

A number of them would have U.S. passports showing that they were U.S. citizens, and gaining their travel back and forth in that way.

Senator MONDALE. Would that be evidence of U.S. citizenship?

Mr. O'HARA. Yes. Others presented birth certificates or baptismal certificates.

Senator MONDALE. The birth certificates that I saw would usually be a certified copy or a photostat, presumably to evidence birth in the United States. But I find baptismal certificates a peculiar instrument to use to establish identity as a U.S. citizen.

Mr. O'HARA. Yes, Mr. Chairman. I inquired about that, and I noticed that some of these documents had thumb prints on them. I inquired about, "How do you determine the genuineness and validity of these things?" And I was told that, "Well, when such a document was first presented, they would sometimes take up the document, give the entrant a receipt for it, attempt to determine its validity, and then once the determination of its validity had been made, they would then have the applicant come in and give them a thumb print on the document itself—initially that, and that was sort of an indication that it was a valid document, and would be recognized as such from henceforward."

I might add, Mr. Chairman, some came through simply on their say-so.

Senator MONDALE. While you were there?

Mr. O'HARA. While I was there. They would walk up to the immigration officer, indeed as we do, those of us from the States of Minnesota and Michigan, certainly, who are fairly close to our Canadian border. When we go across to Canada and return to the United States, we stop at the border. The Immigration officer says to us, "What is your citizenship?" We tell him. He might ask us where we were born.

If the answers seem to him satisfactory, we are admitted.

The same practice is followed on the Mexican border with respect to these farmworkers. They ask what is their citizenship. They respond that it is the United States. They ask where they were born, they tell where, and quite often that is all that is asked.

At other times, the immigration officer may be a little suspicious of this particular person who has given these responses and he may ask further questions.

Then if he isn't satisfied, he may ask for some sort of identification and what-have-you. But for the most part, he simply says, "What is your citizenship?" The response is, "The United States." "Where were you born," and the response is "Brawley," or "Los Angeles," and they go on through.

I think we should greatly tighten up the border. The entry of illegals has been expanding at a fantastic rate in recent years since termination of the Public Law 78, the Bracero Program, and it is becoming quite easy because the amount of personnel and funds devoted to preventing illegal entry is not as great as it must be if we are going to really effectively prevent illegal entries.

Mr. Chairman, I have taken a lot of your time, and the caucus of House Democrats began 4 minutes ago.

Senator MONDALE. Fine. I wouldn't want to interrupt proceedings in the other House. It is screwed up enough the way it is. [Laughter.]

Mr. O'HARA. Mr. Chairman, I want to hasten to assure you that if you are concerned about that, I have no plan in mind as I go to the caucus. I have nothing I want to propose. I just want to make sure nobody else proposes anything else I object to.

Senator MONDALE. Let me say how much we appreciate your appearance here, and your willingness to go to the border and make a first-hand appraisal of the circumstances as you see them. This was essentially the same thing I saw when I went to the border in Texas.

The other day when there was a hearing, I brought up the baptismal certificate issue, and afterward a Catholic priest came down to me and he said there was a very serious problem along the border, and that they tried to encourage the nonissuance of baptismal certificates when they don't accurately reflect the situation.

He said he knew of cases where people held baptismal certificates that make it appear they were U.S. citizens, when in fact they are not.

Senator Murphy, Congressman O'Hara was supposed to be in caucus 5 minutes ago.

Mr. O'HARA. If the Senator has any questions, I will be happy to answer them.

Senator MURPHY. I have none.

Mr. O'HARA. It was a pleasure to talk with you.

Senator MONDALE. Thank you.

Our next witness is Peter Velasco, who is with the United Farm Workers Organizing Committee of Delano, Calif.

I understand you do not have a written statement, but that you would like to make an opening extemporaneous statement, and then have us ask questions.

Mr. Velasco, we are pleased to have you here this morning. You may proceed as you wish.

STATEMENT OF PETER VELASCO, UNION ORGANIZER, THE UNITED FARM WORKERS ORGANIZING COMMITTEE, DELANO, CALIF.

Mr. VELASCO. Thank you, Mr. Chairman.

My name is Peter Velasco. I am a farmworker and a striker since September 8, 1965. I was appointed by the director of the United Farm Workers Organizing Committee in Coachella this year.

Our strike as of today is nearly 4 years, since September. There is a regulation about green card holders, that they cannot cross the border to break this strike, but the growers have used green carders to break our strike, and they were not told they are to work in the strike areas.

For instance, they strike at the Giumarra Vineyards Corp. There were 950 farmworkers who walked out on strike, out of about a 1,000 work force, and they were replaced by green carders.

Senator MONDALE. How quickly were they replaced?

Mr. VALESCO. Green-carders were recruited to replace the strikers, because at the time the grape picking was in swing, and then again in June 1968 we struck in Coachella, and there the growers were notified to sit down and talk with our director and representatives of the United Farm Workers, but the growers refused to sit down with them.

So a representation election was held, and 1,500 voted for union representation, and about 37 voted against.

Senator MONDALE. Would you please repeat those numbers?

Mr. VELASCO. 1,500 voted for union representation.

Senator MONDALE. And how many voted against the union?

Mr. VELASCO. Thirty-seven voted against.

Senator MONDALE. Thirty-seven.

Mr. VELASCO. The people, when we figured it in the fields that people walk out, and thus the growers could not get no workers, and for that reason the growers went to court and—and Judge Pierson Hall had issued an injunction giving 21 days for the growers to recruit green carders.

The green carders broke our certified strike. Mexicali is only 100 miles away from the border, from Coachella, I should say. In the border, since I was there in Coachella, I had the experience of watching personally what transpired every morning. About 21 organizers in my group, by two's, and we went down there about 12 o'clock in the morning, one Sunday morning, and we observed that about 1 o'clock in the morning green card holders start to come in, and about 2 o'clock there are more coming in.

Right there in the pit located where people come across were buses for transporting workers, and along with those buses were station wagons owned by contractors. So about 4 o'clock the buses are loaded with green card holders, and they are transported from the pit into the different areas in Coachella, which the organizers, they follow a bus in different areas, and made a report in the morning, say, about 7:30, when we came home.

They were hauled back from the pit into the Coachella ranches, and returned in the afternoon, which gathering from the figure of—say, they get up at 1 o'clock in the morning and return about 4 o'clock in the afternoon. They practically spend 16 hours for a work of 8 hours a day with pay, and then there is the situation that makes it difficult to form a union under such circumstances or conditions.

Domestic workers are afraid to walk out, because they know that if they walk out, they are replaced by green cardholders.

Unless something can be done about contractors and growers illegally recruiting green carders, there will be escalation of nonviolent involvement of the farmworkers' union.

Also, there is the Immigration and Naturalization Service not fully enforcing the law to stop the green carders breaking our strike. For instance, in the case of Mr. Giumarra Vineyards Corp., where 950 out of 1,000 walked out and were replaced by green carders, and the Immigration Service refused to tell the union who recruits these illegal strikebreakers.

Also, the Filipinos have a peculiar problem. The Filipinos are skillful workers, and they are a No. 1 asset to the growers, and they do all forms of farmwork.

In the early 1930's, laws were passed and deprived them of getting married interracially with caucasians, and they can't own homes and own property, and these laws were supported by the growers so that the Filipinos live in community—live a community life in the camps, and by so doing, they are at the growers' disposal to be used to work for them with low wages.

Then there is the attitude of the growers like paternalistic attitude toward the Filipinos. They call the Filipinos "my boys," and "my boys are happy," they speak of them like they own them, you know.

Also, there is the attitude of the growers of pitting the races against races a sort of dividing the unity of the farmworkers in such a way that they cannot organize as one strong body.

Today, most Filipinos are still without homes and unmarried.

Senator MONDALE. I might add that when many of the present Filipino farmworkers came to the United States, we had an Asian exclusion law which established a ratio of 280 males to one female. There would be 280 male Filipino workers admitted to one Filipino woman. Secondly, the laws in California prohibited you from owning property. The miscegenation statute was amended to prohibit a marriage between a Filipino and a white woman, so that many of the Filipino workers are now in their late fifties and sixties. They have never owned property, and they have never been permitted to marry until just recently. Is that correct?

Mr. VELASCO. That is correct, sir.

Senator MONDALE. I don't know when those discriminatory laws were changed.

Senator KENNEDY. Of course, just developing that point, as Senator Mondale said, even beyond the point of the percentages that were able to come on into the United States, the McCarran-Walter Immigration Act, which referred to those who come from the Asian Pacific triangle, constituted some of the most discriminatory laws that ever existed on the U.S. statute books.

We were able to change that in 1965 so that the accident of birth would not be reflected in the entrance requirements into the United States, but I think what Senator Mondale has touched on here is a whole history of the U.S. laws which were on their very face, many of them, the most blatant kind of discrimination that we have ever had.

I think all of us are aware of the hidden kinds of discrimination which existed in our society, but here was something that was just written right into the statutes, and existed from the late 1920's, when the early immigration law passed, right up to only a few years ago.

So I think that it is appropriate for us to keep this in mind when we are talking about this background which you relate to the committee today.

Mr. VELASCO. It was only after the war that the Filpinos were granted the privilege to get married interracially, and for all these reasons, on May 10 through May 18, the farmworkers held a march from Indio to Calexico, on the border of Mexicali.

The purpose of this march, it was a 100-mile march to the border, is to protest against illegal recruitment of green carders by contractors and growers, and to appeal to the brothers in Mexico to unite with us in our struggle.

We feel that our fight as domestic workers here in the United States is also their own fight, and just wages and better living conditions and the future of our children will also benefit them.

The rally won a very strong support by campesinos, or the farmworkers. There were about 400 marchers from El Centro down to Calexico, and were joined by over 2,000 supporters right there at Calexico.

Then the rally was so successful that everybody had expressed their opinions on behalf of the farmworkers. I can say many guests around here, like Senator Kennedy and Senator Mondale were there, and Congressman O'Hara was there, and Senator Yarborough was also there, and other representatives from the AFL–CIO and the United Auto Workers were there.

In order that the farmworkers can have a union of their own, it is necessary to bring the farmworkers' union up to the living standards.

Strong legislation is needed to protect the union. You see, the farmworkers' union is just like a newborn baby, and it needs all the protection until it becomes strong, like legislation under the Wagner Act.

We need all kinds of protection, and we also need legislation to prohibit the importation of green cardholders to break our strike, and we need also in that legislation a freedom of speech in a way that we can communicate with the workers, and the right to strike to put it on a level of power equal to the power of the growers.

So those are the basic points which we want legislation to help the farmworkers form a union of their own.

That is all I have to say, gentlemen.

Senator MONDALE. Thank you, Mr. Velasco, for excellent testimony.

I recently received a report from California, and I would like to read it and ask you if this would be an accurate description of what goes on at the border.

This is a report by David Averbuck, one of the unions' lawyers to Jerome Cohen, counsel to UFWOC. Mr. Averbuck reported:

> On April 27th, 1969, 10 separate investigations were made on the border at Calexico and Mexicali. At 11:00 P.M., 20 organizers and myself went down to the border and stationed ourselves at the corner of Imperial Avenue and Third Avenue in Calexico. We had ten automobiles with us, and thus were prepared to follow ten vehicles north to the Coachella Valley carrying green card holders from Mexicali who were breaking our strike in the grapes.
>
> At 1:00 A.M., the people started crossing the border in groups of around five or six. Many went parallel to the border and ended up in the "Hole." The "Hole" is a flat area where dozens of trucks and buses line up to haul Mexican nationals to the fields in the Coachella Valley, the farms near Brawley and Calipatria, and the ranches in the Imperial Valley. Most of the contractors who bring the green carders to break our strike line their buses and trucks on Imperial Ave. and in a vacant lot on that street between Second and Third Avenues in Calexico.

By 2:00 A.M., the recruiting is begun by the contractors and the foremen. All that the green carders are usually told is that there is a job in the grapes, that the pay is between $1.50 to $1.65 per hour, and that the job is for a grower in the Coachella Valley. The workers ask no questions because it is a buyer market—by the end of the morning hours, many farmworkers will have to go back across the border to Mexicali without a job. Of the dozens of farmworkers that we talked with, none were told that there were certified labor disputes at the ranches to which they were to be taken; none were told that under the law they were in jeopardy of losing their green cards.

At 3:00 A.M., the buses and trucks start for the north. There usually is no charge for the workers who go on the buses during the hours of 3:00 to 5:45 A.M. (actual travel time varies, but with the bus I followed it took 2 hours and 45 minutes to get the green carders from Calexico to the vineyards near Mecca. For those workers who come in private cars and pickup trucks, the fee is usually $2.00 round trip.

Approximately 700 green carders from Mexicali came up to the Coachella Valley vineyards from the Imperial Avenue area. In the "Hole," although I had to leave early and did not see how many more came, thousands of green carders were packed in trucks and buses like cattle. In some trucks, there are four rows of people (with each two rows facing each other) packed in like sardines, women placed indiscriminately among the men, some of whom are drunk or sleeping. Should there be an accident or fire, there would be no escape and we would have the same tragedy that occurred in Salinas, California, a few years ago when several dozen farmworkers were trapped in their burning vehicle and died.

The bus we followed came up Highway 111 and made only one stop at the Immigration and Naturalization outpost north of Nieland, California. The bus was driven by a green carder named Eliseo Biscara. The bus was owned and operated by a farm labor contractor from Indio named Oscar Ortega. Ortega has admitted to me in front of four witnesses that he hauls workers from the border to Bianco Fruit Corp., Coachella-Imperial Distributors, Karahadian and Sons, Inc., Cy Mouradick and Sons, and Richard A. Glass, Inc., and that he and his men have not informed the workers that there are labor disputes at these ranches.

At each of these ranches, as you now are quite aware, we have certified labor disputes by the Secretary of Labor. Five days before I followed the bus, I informed Henry C. Felchin (Head of El Centro Office of Border Patrol) that Ortega was illegally recruiting workers in Mexicali to break our strike. Despite the fact that the bus was clearly marked ("Oscar Ortega"), the border patrol officer detained it for only four minutes; that works out to 6 seconds per passenger. Biscara later told me that the border patrol officer did not ask where the bus was going. Ortega is now hauling approximately 300 workers alone.

The bus arrived at the field at 5:45 A.M., and the workers were told to work at six in the morning. When we talked with the workers from Mexicali, none were aware that they were breaking the strike or that a dispute existed.

The ranches which all the vehicles went to were around the Coachella Valley, and included: Bianco Ranch #3 (1968 Dodge stationwagon with ten green carders, license No. CRE 825); Heggblade-Marguleas (we have a certified strike here; 1959 Chevy stationwagon with nine workers, license No. KO 443); Hopper Ranch (ten people there, 50 more from Mexicali); etc.

Finally, the green carders return to Mexicali at 6:00 P.M. after leaving around 3:30 in the afternoon. Since most of the green carders live in the outskirts of Mexicali, they don't get home until around 7 to 7:30. Then up at one in the morning on the next day to start all over again.

Signed: David Averbuck.

Would that be, in your opinion, an accurate description of what is going on along the Mexican border?

Mr. VELASCO. This is correct, Senator.

Senator MONDALE. Was that the reason for your march and rally at Calexico, to try to demonstrate these facts and the need for reform along the border?

Mr. VELASCO. Yes, Senator.

Senator MONDALE. In your opinion, if the situation along the border is not corrected, would it ever be possible for farmworkers to have

the same opportunity to organize, and have collective bargaining, as has been available to all other workers in this country for nearly 34 years?

In other words, will we need reform along the border if we are going to have hope for collective bargaining and the right to organize?

Mr. Velasco. Yes; we need that.

Senator Mondale. Senator Murphy?

Senator Murphy. How many immigrants would you say come across the border illegally? Would you have any knowledge of that?

Mr. Velasco. I believe there are over a thousand of these people from Mexicali crossing the border.

Senator Murphy. Crossing illegally?

Mr. Velasco. It would be illegal on the viewpoint that they are not told they are working in strike areas.

Senator Murphy. That isn't what I mean. I am not speaking of the green card holder. Under the present law, the green card holder comes in legally, and he has all the rights of citizenship except that he can't vote. I am referring to the illegal immigrants who come in without green cards?

Mr. Velasco. I presume there are some people who do not have a green card among those people.

Senator Murphy. Is the condition worse now than it used to be?

Mr. Velasco. I believe that it is much worse now than it was.

Senator Murphy. How do you designate the strike? Do you just decide that you will strike or do the workers in the vineyards have a vote?

Mr. Velasco. When the workers walk out of a vineyard, that is a strike. They are walking out on a strike.

Senator Murphy. When we held hearings up in the San Joaquin Valley 2 years ago, we had great difficulty in understanding this to be the case. I had a list of vineyards that were supposed to be on strike. I picked out six of these vineyards at random and called the State Labor Office to find out if there had been an official notification of a strike. I was told that none of them had been officially notified.

This is why I am wondering how you notify the employer at the vineyard that there is a strike.

Mr. Velasco. This is the way it happened in June 1968, Senator——

Senator Murphy. Where was this?

Mr. Velasco. In Coachella.

We had some pickers in a vineyard, for example, and some workers walk out from the vineyards, and along with us, along with us were two from the Department of Labor, taking the names of the people who walk out and to certify that there is a strike going on in there.

That is a certification by the Department of Labor that the strike had been declared in that vineyard.

Senator Murphy. The fact that the Department of Labor personnel witnessed the men walking out is all you need to certify that there is a strike condition existing?

Mr. Velasco. That is right, Senator.

Senator Murphy. Were the 2,000 persons that joined in the march in Calexico green card workers?

Mr. Velasco. Many, or most of those people are green card holders, Senator.

Senator MURPHY. Are you saying that the green card holders would also like to have a union as much as the domestic worker would?

Mr. VELASCO. That is correct.

Senator MURPHY. Has the system of recruitment changed much during the last year, or is it practically the same as it has been, to my knowledge, for 20 years?

Mr. VELASCO. It hasn't increased very much since the strikes have begun, Senator.

Senator MURPHY. You say there was great interest exhibited by the AFL–CIO. Is it generally known that the AFL–CIO is strongly behind the attempt to organize?

Mr. VELASCO. Correct.

Senator MURPHY. I read often about Mr. Chavez, but I don't read much about Mr. Meany or Mr. Reuther. Would that be a fair statement to say they are just as interested?

Mr. VELASCO. I would like to answer it this way, Senator. I know that the AFL–CIO is backing us by financial means, and the organizational man, William Kircher, has been working along with us.

Senator MURPHY. As you know, Walter Reuther is no longer part of the AFL–CIO; he is with the Auto Workers.

Mr. VELASCO. Yes.

Senator MURPHY. Is financial assistance coming from the United Auto Workers as well?

Mr. VELASCO. That's right, Senator.

Senator MURPHY. I don't have any other questions. Actually, Mr. Chairman, there is not too much about this subject that I am not familiar with and, as you know, I introduced legislation yesterday which would make it possible for farmworkers to organize and bargain collectively. I hope it will be successful, because I know the social and economic problems facing the worker.

I am sorry to say that I wasn't as knowledgeable as I should have been about the conditions of entry and the restrictive laws. I certainly will look these up and do my utmost to see that if there are any that haven't been changed, that they will be soon.

Thank you. I have no more questions.

Senator MONDALE. Senator Schweiker?

Senator SCHWEIKER. Thank you, Mr. Chairman.

I would like to ask a few questions. One is the pay that the green card holders usually get. Is this pretty standard, or does it vary quite a bit?

In the areas in which you work, what is the starting pay for a green card holder?

Mr. VELASCO. Before the strike, they were not paid as much as domestic workers were paid, you see.

Senator SCHWEIKER. Could you give me some figures? You were paid about what, and what were they getting before the strike?

Mr. VELASCO. We were paid—it ranges in wages from different growers. Dalatan, $1.15 and $1.30 an hour.

Senator MURPHY. Can I ask another question?

Was there also a piece rate over and above that?

Mr. VELASCO. Yes, Senator. There is also a piece rate per box. It is 25 cents a box.

Senator MURPHY. In other words, you get a minimum of $1.10 plus a piece rate of 25 cents a box?

Mr. VELASCO. And the piece rate is just solely a piece rate. It is 25 cents a box, or 32 cents a box. It all depends on the contractor.

Sometimes the contractor is one who gets the big slice, and says, "That is what I can give you, boys."

Senator MURPHY. Does he also offer more money to the better workers?

Mr. VELASCO. For the green card workers, you say?

Senator MURPHY. No; the better workers. When the contractor goes to the pit down there, doesn't he generally know the best workers and try to get them on a piece rate?

Mr. VELASCO. Usually those who work on piece rate are the younger ones. Piece rate is something that you have got to work like hell, you know. You triple your effort, as when you work by the hour, because you want to make money, and you have to be able to make that money.

Senator MURPHY. I am working harder now than I ever did. I wish I was working on a piece rate.

Mr. VELASCO. And when the hourly rate is concerned, $1.10 an hour, there is an incentive of 5 cents per box that you are paid for the box that you pack, you see, and usually a picker makes an average of three to four boxes an hour, so if you make four boxes an hour, you have 20 cents on top of your $1.10, and some of the farmworkers who make beyond four boxes, the quality of the job is not as good as when you make three or four boxes an hour.

You see, you try to cheat some way if you make beyond four boxes an hour.

Senator SCHWEIKER. I would like to come back to my original question.

You were starting to tell me the difference between what you were getting and what the green carders were getting before the strike set in. You started to tell me, if I have it straight here, that you were being paid $1.10 minimum, plus how much a box, 5 or 25 cents?

Mr. VELASCO. 5 cents.

Senator SCHWEIKER. Which would probably be another 20 cents per hour, four boxes, so you are really talking about roughly, $1.30.

What were the green carders getting before the strike, or were they getting the same pay?

Mr. VELASCO. Again, like I said previously, it all depends upon the contractor that hires them, you know.

Senator SCHWEIKER. Could you give me an average, a couple of figures to get a feel for what we are talking about? Were they being paid substantially less than you folks, or not?

Mr. VELASCO. In most cases, the contractor cannot blindfold these green carders, too, you know, so he has to meet this squarely, or he cannot produce workers for the grower. But there are some vicious contractors, and he will slice a little bit for his own bread and butter from the green carders.

Senator SCHWEIKER. What happened to the wages after the strike? You implied there was some change.

Mr. VELASCO. Yes. After the strike, there was a raise in wages. It used to be $1.10, $1.15, or $1.20. The reason for that is for the growers to attract the workers to come in.

Senator SCHWEIKER. How much of an increase an hour was this?

Mr. VELASCO. The increase up to this point—I know the growers are paying $1.50 or $1.65 an hour.

Senator SCHWEIKER. So you are saying it went from $1.10 to $1.60 now; is that right?

Mr. VELASCO. $1.65.

Senator SCHWEIKER. Do you set up a certain area as a union organizer; is that right? How many strikes are there at places of employment in the area that you covered? In other words, how many strikes do you have going in the area that you are responsible for?

Mr. VELASCO. This year we have not declared a strike as yet.

Senator SCHWEIKER. What?

Mr. VELASCO. We have not struck this year as yet. But last year, we had about 22 certified strikes.

Senator SCHWEIKER. Twenty-two?

Mr. VELASCO. Yes.

Senator SCHWEIKER. When will the strikes come this year, during the season, during the harvesting season? Will that be the normal time?

You say you are not on strike now. When will the strikes probably occur, what time of the year? Does it relate to the crop when it is harvested?

Mr. VELASCO. I am not going to tell you that. [Laughter.]

Senator SCHWEIKER. I assure you I won't be down there picking them. [Laughter.]

When did the strikes occur last year?

Mr. VELASCO. We came late last year, Senator, and this year we came 2 months early, but still I am not going to tell you when we are going to strike.

Senator SCHWEIKER. When you have these strikes occurring, what efforts do you as a union organizer make to inform these green carders that they are breaking a strike and to go to the places like the Hole and tell them not to break the strike and educate them and hand out literature making them aware of what they are doing?

In other words, the testimony here of the Chairman was that most of the people didn't know they were breaking a strike.

Now, what does your union do to inform the people that they are strikebreakers, and how do you educate them? How do you deal with a problem like that, if you can tell me now? I don't want to ask any trade secrets.

Mr. VELASCO. Well, it is OK. I am not keeping this a secret. We have different kinds of media by which we can reach these people, like loudspeakers, leafleting, and telling them we are going to strike on a certain day, or telling them for their own benefit why they should come in with us.

Senator SCHWEIKER. Do you feel it is effective, or not? In other words, are you successful, once you launch a campaign, to stop the strikebreakers, or is it a pretty difficult thing to do?

Mr. VELASCO. If this influx of green card holders will be stopped, I think it will be very, very effective, Senator.

Like I said a while ago, the domestic workers, no matter how deep from their hearts they want to join our union, you see, and they walk out knowing when they walk out, they will be replaced by green

card holders say, "So what the heck do I have to walk out for? I have a family to support."

The grapes will be picked by nonresident people, so they sort of feel reluctant to walk out.

Senator SCHWEIKER. In the district you are responsible for, roughly, how much membership does your union have, or have you organized? Do you have any rough idea?

Mr. VELASCO. Roughly we have over 2,000 who have signed cards.

Senator SCHWEIKER. In that same area, how many green card workers would be brought in? In other words, you have 2,000 that you have organized so far. During the course of a cycle of harvesting, would you give me an estimate of how many green card workers come in and break the strike? How many people are we talking about who might come into the area where you have 2,000 signed up?

I know it is pretty hard to guess on this, but all I am asking for is a guess.

Senator MONDALE. May I interrupt just a second, Senator Schweiker.

I think it is fair to say that Mr. Velasco's comments have been directed toward the nonresident green card holders. There are other green card holders who are residents. So when we talk about green carders coming in for strikebreaking purposes, I think we are talking about the ones coming across the border who don't live in the United States.

So when you are talking about green carders, I think that distinction has to be made.

Senator SCHWEIKER. In other words, what would be the numbers of strikebreakers who might come into an area that your 2,000 organized people are working in? Could you give me a rough idea?

Mr. VELASCO. As many as walk out of the grape vineyards will be replaced by that number, easily [snapping fingers] like that. It is only 100 miles, to Mexicali.

Senator MONDALE. Let the record show that the witness snapped his fingers.

Senator SCHWEIKER. Of the membership of your union, I understand from Senator Mondale's point, are all of them living in the United States, or do some of your members also live in Mexico? Of those who join your union, who sign up?

Mr. VELASCO. I can tell you we have green carders who are now members of our union, and they reside in the United States.

Senator SCHWEIKER. And who reside where?

Mr. VELASCO. Who reside in the United States.

Senator SCHWEIKER. Do you have members of your union who commute every day, or is this difficult to get, or is that the purpose of your union? That is what I am trying to find out. In other words, do people join your union who cross the border every day, or are they not members of your union?

Mr. VELASCO. They are not members of our union.

Senator SCHWEIKER. In other words, you concentrate on those who physically reside in the United States, although they may be green carders. Is that what you are saying?

Mr. VELASCO. The purpose of the paraganacion y' súplica to Mexicali is to sort of convey the message that our problem as domestic workers here in the United States is also their problem.

So we ask them to unite with us and join with us in our struggle, so it is just like the same as us here in the United States, you know. They want to be a member of our union, they can be a member of our union and reside in the United States.

Senator SCHWEIKER. How long have you worked as a union organizer in this area?

Mr. VELASCO. I have been an organizer since September 8, 1965, when we struck. I was a picket, chairman, dispatcher, and I work hard every day dispatching captains to go and picket the vineyards, and for 3 years I was organizer in the Bay area, Oakland, San Francisco, and Marin County, Berkeley.

Senator SCHWEIKER. That is all, Mr. Chairman.

Senator MONDALE. Senator Murphy?

Senator MURPHY. You started in Richmond and Delano. Is that your home, Delano?

Mr. VELASCO. That is my home base. I don't have a home. I am a farmworker. I cannot afford to buy a home. I migrate from Delano to Coachella.

Senator MURPHY. Let me ask you this: Were there many green card workers who came into Delano?

Mr. VELASCO. Would you repeat that, sir?

Senator MURPHY. Were there many green card workers who came into Delano?

Mr. VELASCO. Yes.

Senator MURPHY. What is the farm rate of pay in Delano now, do you know? Could you tell me?

Mr. VELASCO. In Delano?

Senator MURPHY. Yes, for grape pickers.

Mr. VELASCO. I believe they are paying $1.50 in some places and $1.65 in other places.

Senator MURPHY. Plus the piece rate?

Mr. VELASCO. There is no piece rate there yet, Senator, because they have not started harvest.

Senator MURPHY. Was there a piece rate last year?

Mr. VELASCO. Yes, they did pay piece rate.

Senator MURPHY. Were you at the hiring hall when we came to visit 2 years ago?

Mr. VELASCO. Yes. I saw you, Senator.

Senator MURPHY. I remember. I thought I saw you there, too. Why did you select workers on table grape farms as those to be organized? I am sure that you are not going to limit your union just to them. Won't the union encompass all farmworkers?

Was there any reason for the concentration of interest toward table grapes?

Mr. VELASCO. The table grape is a crop in Delano that is the No. 1 crop there in Delano, so in May 1965 a strike had been declared here locally against Mr. Friedman, and in that strike the strikers had demanded from $1.20 to $1.40, and Mr. Friedman had agreed to pay them $1.40, so the strike was called off, and the workers went back to work.

But what was wrong with that strike is that when Mr. Friedman agreed to pay them $1.49, the strikers did not see to it that a contract should have been signed, and when Mr. Friedman went to Delano,

you know, and he refused to pay what he had paid the boys here in Coachella———

Senator MURPHY. How many dues-paying members do you presently have in your union?

Mr. VELASCO. According to a report from our lawyer, he said we have 17,000 members in the State.

Senator MURPHY. 17,000?

Mr. VELASCO. Yes. Some of these 17,000 members are not dues-paying members, just like myself. I am a member, but I am not paying no dues, since I am still not earning any money.

Senator MURPHY. Are all 17,000 in the State of California between the Imperial and San Joaquin Valleys?

Mr. VELASCO. That is correct.

Senator MURPHY. Thank you very much.

Senator MONDALE. Mr. Velasco, could you tell us how the life of the farmworker who works for wine grape growers, and has organized, and is subject to a signed contract, has changed? How did the life of the farmworker engaged at those places change, in terms of job security, rest breaks, field toilets, et cetera?

Mr. VELASCO. Yes. There was a change. The change was that we have contracts signed by our union, and the grower contracted, and the wages are higher, $1.90 and $2.35, depending on the different kinds of categories of work that they do.

We have fringe benefits, union benefits, health insurance, and paid vacations, and——

Senator MONDALE. Is there job security, in other words, from one season to the next? Are some of the employees assured of a job the next season?

Mr. VELASCO. Yes, sir.

Senator MONDALE. Has that ever been true before? In other words, this is the first time in the lives of many of these workers that they have been assured as a matter of right that they would have a job next season?

Mr. VELASCO. That is correct, Senator.

Before then, you know, a farmworker could be fired on the spot, you know, and replaced by somebody new.

Senator MONDALE. And that often happened, did it not?

Mr. VELASCO. Yes, those without contracts, sometimes somebody don't like anybody's way of working, and things like that, and so——

Senator MONDALE. Could an employee be fired for union activity? In other words, if you were working for a grower and you did not have a union contract, and the grower discovered that you were trying to organize his workers, would it be uncommon to be fired for that reason?

Mr. VELASCO. No, you won't be fired, sir.

Senator MONDALE. I am talking about where you don't have a contract. I am not talking about the wine grape-pickers now, but before the contracts, if a wine grape grower discovered one of his employees was engaged in trying to organize the workers into a union, was it unusual to have him fired for his union activity?

Mr. VELASCO. No. If he is discovered as a member of the union, he can't be fired. He can't be fired.

Senator MONDALE. Just one final question.

The purpose for this hearing is to determine whether there is such a large available source of nonresident alien labor available across the Mexican border so as to effectively deprive the farmworkers of the right to organize. For this reason, if you call a strike and your members come out of the field, the grower can quickly replace all these workers with foreign labor. Is that your testimony?

Mr. VELASCO. That is correct, Senator.

Senator MONDALE. And there have been many examples at various points where strikes have been called, workers on strike have come out of the fields, the union has represented the vast majority of the workers in the fields, only to have the workers replaced in the next day, or by the snap of a finger, as you put it, by strikebreakers brought across from Mexico; is that correct?

Mr. VELASCO. That is correct, Senator.

Senator MONDALE. And is it your testimony that until something is done to regulate this problem in one way or another, that it will continue to be extremely difficult to organize and bargain collectively in the area in which you are organizing?

Mr. VELASCO. We would be forced to escalate our own activity, nonviolently, you know, if this should continue, Senator, this replacement of the farmworkers walking out of the fields.

Senator MONDALE. Thank you very much, Mr. Velasco, for very, very fine testimony. We are most appreciative to you for coming here all the way from California to give us this important contribution.

(The following correspondence relates to the testimony of the previous witness, Mr. Peter Velasco:)

UNITED FARM WORKERS
ORGANIZING COMMITTEE, AFL–CIO,
Delano, Calif., May 29, 1969.

Mr. BOREN CHERTKOV,
Counsel, Migratory Labor Subcommittee,
Senate Office Building, Washington, D.C.

DEAR BOREN: The following is relevant information concerning our strike in the Coachella Valley:

The United Farm Workers Organizing Committee, AFL–CIO has always been desirous of acquiring governmental certification of our labor disputes on both state and federal levels. In California, when the State Department of Employment certifies a labor dispute, the farm labor offices of that department cannot send workers to the struck ranches. On the federal level, when the Secretary of Labor determines a labor dispute, the federal regulation on green carders is activated and the growers cannot import strike breakers from Mexico.

We have had dozens of strikes certified on the state and federal level, but recently we have been subjected to irrational decisions and delays by the Reagan and Nixon administrations. Prior to Reagan's ascent to power, we had several dozen strikes certified by the State Department of Labor. Immediately upon his election as governor, the strikes were decertified despite the fact that we asked the Department of Employment to send investigators to Delano to interview numerous workers who were on strike at the certified ranches. Unfortunately, these workers were never given interviews, and in spite of or because of our protestation, all but one strike was decertified. This was obviously a political decision by the Reagan administration since the then Secretary of Labor, Willard Wirtz, continued to hold that valid labor disputes were in existence at those ranches. In other words the State Department of Employment said there was only one strike at Giumarra Vineyards Corporation, while the Federal Department of Labor held there were dozens of strikes in the State of California.

The Department of Labor on the other hand has customarily sent investigators to our picket lines, and there they interview the workers so that the Secretary

of Labor can promptly and accurately determine and announce *bona fide* labor disputes. In the Coachella Valley where strike activities have begun this year, ten separate labor disputes were recognized by then Secretary of Labor, Willard Wirtz. This year, however, we are confronted with the Nixon Administration which has publicly taken a stand against our organizing activities. We expected harassment and delaying tactics in strike certification by the Department of Labor in the Coachella Valley this year. Our expectations have been fulfilled.

On Monday morning, May 26, I telephoned Mr. Norm Lueck, Regional Administrator of Employment Security, Federal Department of Labor, San Francisco, California. As usual, I requested investigators from the Department of Labor to be present for our picketing activities to be commenced on Wednesday, May 28. Mr. Lueck informed me that as usual two investigators would accompany our picket lines to interrogate strikers and prepare reports so that the Secretary of Labor could determine and announce the existence of labor disputes. I explained to Mr. Lueck that this process was necessary to prevent growers from illegally recruiting strike breakers in Mexicali, Mexico, ninety miles away.

At 11:30 P.M. on Tuesday, May 27, 1969 I responded to an urgent call from Mr. Lueck who informed me that the Department of Labor would no longer make independent determinations on labor disputes, but instead would depend upon the recommendations of the California Department of Employment. I explained to Mr. Lueck that this was the first time we had ever been subjected to this process, and that the Department of Labor was literally turning us over to the wolves (since the State Department of Employment had already shown its bias and antagonism against the federal certified strikes). Further, I pointed out that the harvesting and picketing activities in the Coachella Valley would only last for a period of approximately six weeks, and this obvious delaying tactic would render any federal determination negative in stopping the growers from illegally recruiting strike breakers in Mexico, because the determination would come too late. This problem is compounded by the fact that most growers do not inform the Mexican strike breakers that a labor dispute is in progress, and thus most green card strike breakers become unknowing violators of their fellow farm workers' struggle. Mr. Lueck's response was that he had received orders from Washington and that he would have to abide by them. I asked him to send me in writing his Department's position regarding the entire matter. He then responded that he would have to check with Washington before he could put anything in writing.

That same afternoon of May 27th, Pete Velasco (Strike Director in Coachella for UFWOC, AFL–CIO) sent the following telegram to the California Department of Employment:

> "We have been informed by Mr. Norm Lueck, U.S. Dept. of Labor, that certification of labor disputes by US Govt. will depend on your recommendation. Request your office immediately send investigators to the Coachella Valley for inspection of UFWOC, AFL–CIO strike activities."

We received the following response from Peter Weinberger, Director, California Department of Employment:

> "Your telegram this date received. Calling trade dispute team to report our Indio office as soon as possible. Most of them should be there tomorrow morning. They will consult with you as to information required."

On the day that the picketing activities began two observers from the Department of Labor, Mr. Mestre and Mr. Feliz, spoke with me on the picket line and said that they would not interview any workers who came out on the strike but would observe our activities.

Around four hours after the picketing activities began, Mr. Jack Ward of the State Department of Employment appeared with five other men at our picket line. They refused to examine declarations signed by 100 farm workers who came out on strike that very day. Mr. Ward and his entourage also refused to interview the people who had come out on strike. Instead, they informed Ron Hosie, reporter for the Riverside *Daily Enterprise*, that no one seemed to be coming out on strike, and then left the picket line.

Later that afternoon, Pete Velasco and I met with Mr. Ward, Mr. Charles B. Belvin, Mr. Gilbert "Gil" Kastoll and Mr. Jack A. Lewis (all representatives of the State Department of Employment). Mr. Ward and his associates requested a list of the workers who left their jobs according to employer, but were unable to guarantee that the list would not be used as a blacklist against these employees. They were unable to promise that the names would be kept confidential. They were unable to say if they had authority to have observers at the site of our strike so as to interview the workers. They were unable to tell us the time

delay which their investigations would take and could make no promises as to the expediting of the certifications.

Finally, I received a telephone call from Mr. Lueck that same afternoon at which time he told me that his office had checked with Washington, D.C. and that Mr. Donnachie (his superior) had instructed him not to put his verbal communications in writing.

United Farm Workers Organizing Committee, AFL–CIO is prepared to present the numerous declarations signed by striking farm workers to your office for inspection since we are confident that you will guarantee that the workers' names shall not be used as a blacklist. Unfortunately, we do not have that guarantee from the Federal Department of Labor or the California State Department of Employment.

Sincerely,

DAVID S. AVERBUCK

UNITED FARM WORKERS
ORGANIZING COMMITTEE, AFL–CIO,
Delano, Calif., June 2, 1969.

Mr. BOREN CHERTKOV,
Counsel, Migratory Labor Subcommittee,
Senate Office Building,
Washington, D.C.

DEAR BOREN: By way of a brief follow-up to my letter of May 29, 1969 please be advised as follows:

On the afternoon of May 29, Jack Ward, State Department of Employment, returned with three other representatives of the Department for a second meeting. They informed me that they had discussed the situation with Sacramento and wished to advise me as follows:

(1) They could not guarantee that the names of strikers, given to them by us, would not be used for a blacklist.

(2) They had received orders not to interview farm workers as they came out of the fields on strike—contrary to the practice of the Department of Labor in the past.

(3) That they did not recognize The Desert Grape Growers League at the present time as the bargaining representative for the growers in the Coachella Valley.

They informed me that they would not be able to recognize The Desert Grape Growers League as bargaining representative for our opposition until their lawyers could make a complete determination and investigation which would take some time. Despite the fact that demands have been made on The Desert Grape Growers League as well as on individual growers, the Department of Employment is not going to certify any strikes against members of the League until the question of its status as a bargaining representative for its members is cleared up.

Jack Ward did volunteer that he and his cohorts have spent a great deal of time with the grape growers and, more particularly, with Mike Bosick, President of The Desert Grape Growers League. When I asked Mr. Ward why he selected Mike Bosick as the party with whom he should deal in this dispute, if he did not recognize the League of which Mr. Bosick is president as a bargaining agent, he replied only that this was a matter of his personal choice. Despite the fact that Mr. Ward and his assistants spent 45 minutes in the field talking to the grape growers, he refuses to talk to any one of the dozens of individual farm workers who come out on the strike.

On June 2, 1969, A. M. Parker, of the Immigration and Naturalization Service, informed Frank Denison, a volunteer attorney for the Union during the strike, that it was his understanding that the Department of Labor was also contemplating decertifying the strikes which were certified last year if and when the California Department of Employment requests that the Department of Labor so act.

Sincerely,

DAVID S. AVERBUCK.

(Western Union Telegram)

JUNE 4, 1969.

Hon. JOHN N. MITCHELL,
Attorney General, U.S. Department of Justice,
Washington, D.C.:

Recent hearings of the Subcommittee on Migratory Labor revealed how the massive influx of commuters across the Mexican-United States border depresses the living and working conditions of the migrant and seasonal farmworkers who are ligitimate residents of this country. They revealed how questionable birth and baptismal certificates, and green cards issued on an unverified assumption of permanent and stable employment in the United States are used by alien strikebreakers to circumvent the intent of our immigration and labor laws. In the interests of justice and law and order, I call upon you to do everything within your power to require the Immigration and Naturalization Service to more vigorously and effectively enforce the existing laws and regulations regarding border crossings along the U.S.-Mexican border.

Sincerely,

WALTER F. MONDALE,
Chairman, Subcommittee on Migratory Labor,
Committee on Labor and Public Welfare, U.S. Senate.

(Western Union Telegram)

JUNE 4, 1969.

Hon. GEORGE P. SHULTZ,
Secretary, U.S. Department of Labor,
Washington, D.C.:

Recent hearing of the Subcommittee on Migratory Labor has revealed the critical importance of preventing holders of greencards from acting as strikebreakers during labor disputes affecting migrant and seasonal farmworkers. Existing regulations prohibit the employment of greencard holders where a labor dispute has been certified. The effectiveness of this regulation depends on the prompt certification of labor disputes by the U.S. Department of Labor wherever they exist.

I am extremely disturbed to learn that you have broken precedent in this area and ruled that the U.S. Department of Labor will no longer make independent determinations on agricultural labor disputes in the State of California, but instead will depend upon the decision of the State of California. The significance of this retreat is evident from a review of the facts—last year the U.S. Department of Labor certified 45 disputes on California ranches, while the State found that only a few certified disputes existed.

I urge you to reconsider this decision and return complete and direct responsibility for certifying labor disputes as they affect federal regulations on the employment of greencard holders to the U.S. Department of Labor.

Sincerely,

WALTER F. MONDALE,
Chairman, Subcommittee on Migratory Labor,
Committee on Labor and Public Welfare, U.S. Senate.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 11, 1969.

Hon. WALTER F. MONDALE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONDALE: I am writing in reply to your telegram of June 4, 1969, expressing concern over the possibility of green card holders serving as strike breakers during the California farm labor disputes.

As you know, a number of disputes have occurred in California since 1965. The Department's policy during these previous disputes has been to allow the State of California to make a determination as to whether a dispute actually exists in accordance with the requirements of the Wagner-Peyser Act. The Department

of Labor also has a responsibility under the Wagner-Peyser Act to review the State's determination and, where necessary, independently determine that a labor dispute exists. This Federal responsibility is presently being carried out by our Regional Manpower Administrator in San Francisco.

During the past few years the following determinations of farm labor disputes have been made in California:

1967—
1 determination by the State of California.
1 determination by the Department of Labor.
[These findings involved the same dispute.]

1968—
21 disputes were found to exist by the State of California.
23 additional disputes were found to exist by the Department of Labor.

1969—
1 dispute has been found to exist by the Department of Labor (as of June 6, 1969).

In 1968, my predecessor, W. Willard Wirtz, decided that it was necessary to depart from the usual procedure of allowing the State of California the first opportunity to determine whether or not a farm labor dispute existed. He sent a team of Department officials to California to make on-site inspections of those California farms where labor disputes were alleged to exist.

In late May of this year our San Francisco Regional Office was notified by the American Farm Workers of California, headed by Mr. Ceasar Chavez, that it was their intention to strike the grape growers in the Cochella area of California. The Department of Labor notified the State of California of this proposed activity. Anticipating the need to immediately certify whether or not labor disputes existed, the State of California dispatched investigative teams to make the necessary determinations. These determinations will be carefully scrutinized by the Department's Regional Manpower Administrator.

Representatives of the State of California have asked Mr. Averbuck, an attorney representing Mr. Chavez, to furnish the State with names of workers, allegedly leaving the farms because of a labor dispute. Mr. Averbuck stated that he could not furnish the names of the workers unless authorized to do so by Mr. Chavez. At this point, the State is awaiting a reply from Mr. Chavez which would enable their investigators to make the necessary determination as to whether a labor dispute exists.

The Department of Labor fully intends to meet its obligation under the Wagner-Peyser Act to certify that a farm labor dispute exists whenever the facts support such an allegation. Meeting this obligation includes both the careful review of State determinations of alleged labor disputes and the taking of independent action where necessary. This responsibility, of course, includes prompt notification of the Immigration and Naturalization Service when a labor dispute does exist.

I hope that the above information will be helpful to you and the members of the Subcommittee on Migratory Labor. If I can be of further assistance, please let me know.

Sincerely,

GEORGE P. SHULTZ, *Secretary of Labor.*

U.S. DEPARTMENT OF LABOR,
BUREAU OF EMPLOYMENT SECURITY,
Washington, D.C., October 13, 1967.

Regional memorandum No. 1334.
Functional file classification: 710.
To: All regional administrators.
From: Robert C. Goodwin, Administrator.
Subject: Revised instructions concerning holders of forms I–151.
References: 8 CFR part 211.1.
Purpose: To provide a revised procedure for processing requests for issuance of determination of the existence of a labor dispute in which holders of form I–151 are, or may become, involved.

The Department of Justice has revised 8 CFR 211.1 to provide:

"When the Secretary of Labor determines and announces that a labor dispute involving a work stoppage or layoff of employees is in progress at a named

place of employment, Form I–151 shall be invalid when presented in lieu of an immigrant visa or reentry permit by an alien who has departed for and seeks reentry from any foreign place and who, prior to his departure or during his temporary absence abroad has in any manner entered into an arangement to return to the United States for the primary purpose, or seeks reentry with the intention, of accepting employment at the place where the Secretary of Labor has determined that a labor dispute exists, or of continuing employment which commenced at such place subsequent to the date of the Secretary of Labor's determination.

"The basis and purpose of the above prescribed rule is to preclude the use of Form I–151 by a lawful permanent resident alien in lieu of his obtaining a returning resident immigrant visa or, prior to departure, of his obtaining a reentry permit, when such use would adversely affect a domestic labor dispute."

Below are instructions for processing requests for the issuance of a determination of the existence of a labor dispute involving a work stoppage or layoff of employees when such a dispute involves, or may involve, holders of Form I–151. This may include labor disputes at places of employment in an area beyond commuting distance of the border (over 100 miles from the border) when there is an indication that the employer is seeking to employ holders of Form I–151. These instructions supersede any previously issued instructions on the subject.

The effectiveness of the Immigration and Naturalization Service (I&NS) regulation will depend greatly on the speed with which the Secretary of Labor is able to determine and announce the existence of a labor dispute in which holders of Form I–151 are, or may become, involved.

Request for Determination of Existence of Dispute

The Secretary of Labor, on its own initiative or upon request, will consider the appropriateness of issuing a determination pursuant to 8 CFR 211.1 that a labor dispute involving a work stoppage or layoff of employees is in progress at a named place of employment. The request may be oral or written. It may be made to the Secretary of Labor or his designated representative in Washington, D.C.; to a BES regional administrator who has jurisdiction over the location where the dispute is reportedly in progress; or to the director of a State employment service or his designated representative who has jurisdiction over the area where the dispute is reportedly in progress. If such a request is made to a director of the State employment service or his designated representative, the director should communicate immediately, by teletype, all available information concerning the alleged dispute to the BES regional administrator having jurisdiction over the area where the dispute is reportedly in progress.

The request may be made by any interested party, such as a representative of a labor union or other organization, or a representative of workers. The person or organization making the request should supply as much of the following information as possible:

1. The name, address, and telephone number of the employer involved, and the location of the alleged dispute.
2. The date the dispute began; the date and place of any alleged work stoppage or layoff; the number of employees involved in any such work stoppage or layoff, and their identities.
3. A brief summary of the issues involved in the dispute.
4. The identity of the labor union involved, if any.
5. The name, address, and telephone number of the person or organization requesting the issuance of a determination pursuant to 8 CFR 211.1.
6. If the dispute is beyond commuting distance (over 100 miles from the border), the basis for believing that holders of Form 1–151 will be or are involved.

Confirmation of Existence or Non-Existence of Dispute

The BES regional administrator having jurisdiction over the area where a labor dispute involving a work stoppage or layoff of employees is reportedly in progress will take the following action when a request for the issuance of a determination pursuant to 8 CFR 211.1 has been made:

1. Contact the employer involved in the alleged dispute, by telephone or telegram, if possible, and furnish him the information which the regional administrator has received concerning the alleged dispute. Request the employer to comment on the accuracy of this information and to provide any additional information which will aid in determining whether or not a labor dispute involving a work stoppage or layoff of employees is in progress.

Notify the employer that all available information about the alleged dispute will be transmitted to the BES national office for consideration of the appropriateness of issuing a determination pursuant to 8 CFR 211.1. It should be made clear that the finding will not be delayed to await the employer's response.

2. Contact the appropriate State agency, by telephone or telegram, and request it to furnish any information already available which will confirm or refute the allegation that a labor dispute involving a work stoppage or layoff of employees is in progress at the named place of employment, or information which will aid in determining if such a dispute exists.

3. Contact appropriate representatives of any labor union involved in the alleged dispute, when applicable, to obtain any additional available information or to resolve any conflicting information.

4. When a request for the issuance of a determination has been made with respect to a place of employment which is located over 100 miles from the border, attempt to determine if the employer employs or is likely to employ holders of form I–151. If the place of employment is located less than 100 miles from the border and there is evidence that the employer does not employ and is not likely to employ holders of Form I–151, include such information in the report.

After obtaining and reviewing available information concerning the alleged dispute, endeavor to determine if such information supports the issuance of a determination pursuant to 8 CFR 211.1 that a labor dispute involving a work stoppage or layoff of employees is in progress at the named place of employment. The regional administrator will communicate to the BES national office (Attention: FLC, by teletype, his determination as to whether or not there is a labor dispute and all available information concerning the dispute.

To facilitate handling and to the extent possible, the regional administrator should provide the national office with the following information concerning the dispute in the following order:

1. The name, address, and telephone number of the employer involved, and the location of the alleged dispute.
2. The identity of the labor union involved, if any.
3. The date the dispute began, the date and place of any work stoppage or layoff of employees, and the number of employees involved in any such work stoppage or layoff.
4. A brief summary of the issues involved in the dispute, including whether or not the dispute involves agricultural or nonagricultural issues.
5. The identity of the person or organization requesting consideration for the issuance of a determination pursuant to 8 CFR 211.1.
6. The sources of the information obtained concerning the dispute.
7. His views on whether or not holders of Form I–151 are, or may become, involved in the dispute.
8. His recommendation concerning the appropriateness of issuing a determination pursuant to 8 CFR 211.1.

If unable to determine, due to the lack of readily available information, whether or not a labor dispute involving a work stoppage or layoff of employees is in progress at a named place of employment, report all available information concerning the alleged dispute to the national office promptly for review.

When the Secretary of Labor has issued a determination pursuant to 8 CFR 211.1, the concerned regional administrator should remain in contact with the disputants. Any labor disputes declared in the area should be reviewed not less frequently than every 2 weeks to determine whether or not they are still in progress. Upon receipt of information which indicates the dispute has ended or has been abandoned, the regional administrator should make every effort to confirm this information. This may require a communication to the union and the employer involved. The national office should be informed, by teletype, of the termination or abandonment of any such dispute. This notice should include the source of the information received.

In most cases there will be no need to inform the national office of a labor dispute pursuant to 8 CFR 211.1 unless an interested party requests consideration for the issuance of a determination. However, if the regional administrator learns of the existence of a labor dispute which he considers will be of interest to the Secretary of Labor and which involves, or may involve, holders of Form I–151, he should obtain the information requested in this memorandum about the dispute and forward the information promptly to the national office.

The above procedures are effective immediately.

Rescissions: RM 1325.

Senator MONDALE. Our next witnesses are Messrs. Greene, Hennessy, and Gordon.

STATEMENT OF JAMES L. HENNESSY, EXECUTIVE ASSISTANT TO THE COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE; ACCOMPANIED BY CHARLES GORDON, GENERAL COUNSEL; AND JAMES F. GREENE, ASSOCIATE COMMISSIONER

Mr. HENNESSY. Thank you, Senator Mondale.

The committee is interested in the numbers and classes of individuals whom the Immigration Service examines and permits to enter the United States across the Mexican-United States border. With full appreciation that some of this information is very elementary and is well known to the committee, the following outline of our procedures and practices is submitted for incorporation in your record.

In the past fiscal year ending on June 30, 1968, the Immigration and Naturalization Service examined and passed for entry into the United States across the Mexican border a total of 135,844,365 individuals. Of these 53,776,297 were citizens and 82,068,068 were aliens.

The mandate of the Immigration and Naturalization Service is to inspect aliens to determine their admissibility under 31 separate and distinct statutory grounds of excludability. Our examination of persons claiming to be U.S. citizens is strictly limited to determining that fact. If an individual, by response to questions or the submission of various documents, establishes to the satisfaction of the examining inspector that he is a citizen of the United States, the jurisdiction of this Service over him ceases and he is not subject to any further questioning as to his purpose, intended length of stay, et cetera.

Senator MONDALE. Would you yield there please?

Mr. HENNESSY. Yes, of course, Senator.

Senator MONDALE. Does your Service reach the problem of illegal wetback entrants that don't go through your official gates, that sneak across the border?

Mr. HENNESSY. Yes, Senator. I will get to that later.

Senator MONDALE. You talked about 53 million citizens who crossed. Do you include people who produce a baptismal certificate as being U.S. citizens without further explanation?

Mr. HENNESSY. Not necessarily without further explanation. I am including in the citizens those who have determined to the satisfaction of the inspector that they are citizens.

Senator MONDALE. Is it your understanding that the legitimacy of the baptismal certificates is being checked?

Mr. HENNESSY. Yes. As a matter of fact, we maintain a special fraudulent document center in Yuma, and have maintained such a document center for 10 years.

Senator MONDALE. I ask that question, because I had never heard of this until I went down to the border myself and stood and watched people come across—45 percent of the people that morning, and I assume that was a sample morning because at least I didn't pick it—45 percent of them produced baptismal certificates, and they are coming through there so fast that if they bothered to check one out of every 20 of them, they would have had Mexicans backed up to Mexico City.

Mr. HENNESSY. A baptismal record is obviously not the best primary proof of birth in the United States.

Senator MONDALE. It is not an official record at all.

Mr. HENNESSY. No, it is secondary evidence. There are persons born in the United States, particularly those not born in hospitals, and not attended by physicians, where no formal record is created in the State archives of the person.

They are born frequently with midwife attendance. However, these people are baptized in the local churches, and that baptismal certificate is the best available evidence of their place of birth.

Senator MONDALE. Do you have any evidence on how many baptismal certificates are presented as evidence of citizenship within the figures that you have given us?

Mr. HENNESSY. No, I do not.

Senator MONDALE. Are you in a position to make a rough estimate or express an opinion?

Mr. HENNESSY. I could accept your statement as to your observation at that particular port at that particular time as certainly typical of that area.

Senator MONDALE. Of the baptismal certificates that are presented, how many can you say are authenticated? In other words, how many of these certificates that are presented are actually checked out to determine whether it is a fair representation of persons of U.S. citizenship or not?

I am very suspicious in this field, as you know. I must say I am sympathetic with the immigration officer. I have some question whether the baptismal certificate should be used at all. I saw persons 18 or 20 years of age, who had new crisp baptismal certificates. A Catholic priest told me it was a major problem in and around the border area.

A person who forges a green card is in bad trouble, but if you forge a baptismal certificate, it doesn't mean a thing.

There is no reason a person who wants to work in the United States who isn't eligible can't prepare himself a baptismal certificate, because the worst that can happen is that he would get caught and make another one out the next day.

Mr. HENNESSY. May I read from our annual report in June of 1968 a statement which I think bears on this, and obviously was not prepared in response to this query.

It says that the fraudulent documents center was established in 1958 as a repository for documents used by Mexican aliens to support false claims to U.S. citizenship. The records maintained consist of birth certificates, baptismal certificates, and other documents relating to citizenship.

The information is readily available to all service officers and all other Government agencies to aid in conducting investigations and obtaining evidence where a false claim of citizenship is indicated.

The record is so organized that an inquiry can be made in a matter of minutes. The workload in 1968 was greater than in any—than in the 10 years of its existence.

The total cases received and indexed amounted to 17,753. Inquiries of record checks increased by 8 percent. Positive responses to inquiries rose from 482 to 588. The affirmative responses were made with respect to 21 percent of the inquiries.

For the seventh consecutive year there was an increase in the number of claims to false citizenship encountered by the border patrol. These false claims were made by 2,025 Mexicans, 27 of other nationalities.

Senator MONDALE. That doesn't indicate how many of those inquiries are related to baptismal certificates.

Mr. HENNESSY. No, but I would think it would be the majority. I will try to provide that in the additional information I will submit.

Senator MONDALE. Will you try to provide for the record how many baptismal certificates have been presented as evidence of citizenship at Hidalgo, and how many of those have been checked?

Mr. HENNESSY. Yes.

Senator MONDALE. You may not have that now, and I appreciate that.

Mr. HENNESSY. I do not have that now, but I will submit it for the information of the subcommittee.

Senator MONDALE. Senator Murphy?

Senator MURPHY. Was this condition aggravated after Public Law 78 was terminated?

Mr. HENNESSY. The number of citizens that were born in the United States occurred in large part during Public Law 78, and the illegal entry period, when the large wetback drive occurred in the 1950's. Many of these families were returned to the Mexican side.

Senator MURPHY. Are you saying that the wetback problem doesn't exist any more?

Mr. HENNESSY No, sir; I am not making any such statement. It does exist.

Senator MONDALE. As a matter of fact, it got worse.

Mr. HENNESSY. That is true.

If I may continue the statement.

The aliens who apply for admission are divided into two classes. First, immigrants. These are aliens who have been accorded the right to reside permanently in the United States. Usually they have received an immigrant visa from a U.S. consul abroad.

Once they have made an initial entry with that visa, which is surrendered to the immigration officer at the port of entry, they are issued a green/blue laminated alien registration card. This card serves a dual purpose of being an identity document and also a travel document which enables them to reenter the United States, following departures to Mexico or any other foreign place, without the necessity of obtaining a new consular-issued immigrant visa.

According to the alien address reports filed in January 1969, there were 3,506,359 such permanent residents in the United States. Of these 701,979 were Mexican nationals. The preliminary figures, an analysis of the January 1969 report, indicate that 369,606 of these Mexican nationals resided in California, 198,886 were in Texas, 35,725 were residents in Arizona, and 10,339 were in New Mexico. The 45,309 in Illinois constituted the largest number of Mexican nationals in a nonborder State.

Senator MONDALE. Would you describe for us the criteria that must be established for a greeen card before it is issued?

Mr. HENNESSY. The applicant for a green card is an applicant for an immigrant visa.

Senator MONDALE. What does he have to establish to obtain that green card?

Mr. HENNESSY. The current practice, and I guess that you would prefer that I respond to the Mexicans as such: By the act of October 1965, that became fully effective last July 1——

Senator MONDALE. Under your present regulations?

Mr. HENNESSY (continuing). Yes. There is a ceiling of 120,000 aliens who may enter the United States from all of the Western Hemisphere, and no numbers are specifically allocated to any national or residential group.

The visas are issued on a first-come, first-served basis. As a matter of fact, the supply of visas, 120,000, is not adequate to meet the current demand, and there is approximately a 7- to 8-month delay from the time a person initially registers for a visa before his case may be considered by a consular officer.

To obtain a visa, he has to establish evidence of his nationality. He establishes his freedom from any criminality or political subversive sections, meets various health requirements, and unless he is a spouse, parent, or child of a citizen or a resident alien, must obtain a certification from the Department of Labor that the position to which he is coming in the United States will not adversely affect wages and working conditions in the United States.

This is the so-called labor certification.

If he satisfies the consular officer on all of those grounds, the visa is issued. He surrenders it upon the occasion of his first entry, as I have earlier indicated, and the green card is issued.

Senator MONDALE. That determination of adverse effect is made only once, am I correct?

Mr. HENNESSY. Only on occasion of the original entry.

Senator MONDALE. So he might get a job with employer A which qualifies the immigrant under that standard, and the day after the green card is issued, he may change employment, and he may take a job at a rate which, in fact, does adversely affect the labor market, but there is no further check on that by your service?

Mr. HENNESSY. There is. I would say, that possibly the 1-day business is largely on the theoretical side. It could happen. Frequently it is a longer period of time, such period of time as not to enable us to establish that he obtained the labor certification in a fraudulent way.

In most cases, it is hard for us to establish that that was his intent. This becomes an "after acquired" intention. He is free to go anywhere, and there is no check.

Senator MONDALE. There is no requirement or present effort by the Immigration Service to determine whether this essential finding of no adverse effect upon which the green card is issued is any longer being applied?

Mr. HENNESSY. Yes, we are out investigating these cases frequently to see that the individual goes to the initial employment.

Senator MONDALE. In the first instance, but after that?

Mr. HENNESSY. After that, no, because there is no requirement in the statute.

Senator MONDALE. As a matter of fact, that could go on for 25 years, couldn't it?

Mr. HENNESSY. Yes, and to pinpoint it to our precise issue, an individual could come into the United States with a certification that he was going to employment, we will say, in a factory that needed

a person with his particular skills, and after he had worked there for a few months, he could then transfer over into agricultural employment.

Senator MONDALE. There is nothing in your requirements that prevents him from residing in Mexico, using the green card daily to come across, and after the first determination, to roam at will.

So it is really, in that regard, more or less a work permit, is it not, to permit him to work in the United States where he pleases?

Mr. HENNESSY. The green carder for all practical purposes, I would say, with the exception of his right to run for office or his right to vote, has all the rights of a U.S. citizen.

Senator MONDALE. I understand we do accord the right to serve in Vietnam to these people.

Mr. HENNESSY. We certainly do.

Senator MONDALE. Is there any provision in the green card regulations about labor disputes?

Mr. HENNESSY. Yes, I cover that.

Senator MONDALE. All right.

Mr. HENNESSY. The Mexican commuter immigrant is a Mexican national who, unlike the 3.5 million other immigrants in this country, maintains his home in Mexico and enters the United States for employment on an almost daily basis. This practice of commuting in its current form has continued, with the approval of the Immigration and Naturalization Service and with the knowledge of the Congress, since at least January 1, 1930, following the Supreme Court decision of *Karnuth* v. *Albro*, 279 U.S. 231.

The better to identify the "commuter," commencing early in November 1967, the Service arranged for and did, in fact, insert in the green card relating to these commuters a metal grommet and this has been a continuing check, and our figures up to April 1969, indicate there are 46,756 such traditional commuters, those living on the other side of the border, commuting on an almost daily basis into the United States.

Now, a more responsive reply to your particular question, on the regulations of the Service——

Senator MONDALE. Is there also a requirement that a holder of a green card cannot be unemployed?

Mr. HENNESSY. For more than 6 months. They are permitted to maintain that residence abroad. If they are out of employment for more than 6 months, they must abandon their status or move into the United States.

Senator MONDALE. Is that being checked?

Mr. HENNESSY. This is being checked by the grommet program.

Senator MONDALE. Would you submit for the record the number of green card commuters who have been so checked, the number who have been found, the number who have been found not to any longer qualify under the 6-month rule, and the percentage who have yet to be checked among those who hold the green cards?

Mr. HENNESSY. I will submit this for the record. I think we have identified all the commuters.

In response to your question about the adverse effect on the commuters, early in 1967 there were conversations between the Department of Labor and the Department of Justice concerning the possible ad-

verse effect of the commuter, and the alleged strikebreaking potential of this reservoir of workers on the other side of the line.

It was determined that there is nothing in the statute that would relate this initial certification to subsequent entries of commuters.

There is, however, a provision in the statute that an immigrant has to obtain an immigrant visa on the occasion of each entry, except the Attorney General may substitute other documents.

The green card, as I indicated, has been substituted for the document. So we placed a limitation on the use of the green card, that it would not be valid as an entry document for a person coming to the United States primarily to engage in employment at a place where the Secretary of Labor had found that a labor dispute exists.

That regulation was initially proposed in May of 1967. It was finally published on June 10, 1967, and became effective on July 9 of that year.

The Department of Labor has since that time issued various findings as to labor disputes. There are currently 61 such findings outstanding. There had earlier been 32 additional findings that had been withdrawn.

Senator MONDALE. Does the Immigration Service check the sites of these labor disputes to determine whether green carders are, in fact, being used?

Mr. HENNESSY. Yes, we have investigators and border patrolmen who are constantly alert for illegal aliens in the United States. These are in a new class.

Senator MONDALE. Do you go to the grower and check the fields?

Mr. HENNESSY. Yes.

Senator MONDALE. How often do you do that?

Mr. HENNESSY. I would suggest in some of these fields we have been over those fields more often than the grapepickers have been over them.

Senator MONDALE. Would you give us a report on the number of enforcement officers you have checking that data in the fields, the method by which you in fact do check them.

Also, I believe I am correct that there is no responsibility, as there is in other industries, upon the grower to determine whether he is hiring illegally——

Mr. HENNESSY. This is all too true.

Senator MONDALE. So that the grower can either decide not to check that fact, or he can ignore it, and freely use green carders or illegals without having a penalty?

Mr. GORDON. Except when he harbors them. If he harbors them, there is a penalty.

Senator MONDALE. There is an exemption in the present law with preference to the agriculture industry in this instance against almost any other kind of employer; am I correct?

Mr. HENNESSY. Correct.

Senator MONDALE. The present administrative regulations could be called inadequate in that commuters are prevented from being hired only after a Department of Labor certification that a labor dispute exists.

Is this not limiting, because a person could be hired after a labor dispute exists and before a certification is made. And, an employer can circumvent the regulation by hiring just before a strike is called.

Mr. HENNESSY. This is true, but I think to penalize the individual, who hasn't received any knowledge from any agency of the Government that a strike is in progress or one has been found, and then retroactively to say that his employment with this organization is such that could make him deportable, I think that would be going too far.

Senator MONDALE. Are you satisfied that we now have an adequate system for the implementation of the rule that green carders can't be used in the strike?

Mr. HENNESSY. I am never completely satisfied.

Senator MONDALE. Are you able to testify that there is not a substantial use of green carders in labor disputes today?

Mr. HENNESSY. I can state that within the 61 places that have been certified our unremitting effort to try to locate individuals who are in the United States in violation of this regulation has been much like the mountain laboring to produce a mouse.

Senator MONDALE. We have had testimony here that at a Giumarra farm the workers were called out on strike and the next morning they were replaced by workers brought up from the border, and we hear this repeatedly in those areas.

Do you think that is not accurate?

Mr. HENNESSY. I think that there could possibly be a situation where both statements could be correct. There could be green carders brought up from the border in substantial numbers, not necessarily those in violation of the regulations.

They could have been persons who had previously worked there. They could have been persons who were not primarily coming in for that purpose at the time they crossed the border. This is one of the difficulties.

Senator MONDALE. In other words, they say, "I am here working, but that isn't the primary reason I came," and they are OK?

Suppose 600 people leave a field, and the grower goes down to Calexico and picks up 600 Mexican green carders, or those holding baptismal certificates and so on, and takes them up to his farm, and the next morning replaces those on strike.

Assuming you send your inspectors up there, is it adequate for the workers to say, "We are working, but that was not our reason?"

Mr. HENNESSY. No; if they were working and had no home in the United States.

Ten cases appeared to fall within the ban that we have found, and we issued orders to show cause why those persons should not be deported from the United States on the grounds that they basically had a home in Mexico; they had entered the United States subsequent to the Secretary of Labor's determination; and they were working directly on that farm.

The case went in for action in the U.S. District Court for the Central District of California, the *Cermeno-Cerna, et al.* v. *Farrell* case, in which the court found the regulations—and it was explained in an affidavit by our general counsel that this regulation related to those persons who had a home in Mexico and not to the general run of the green carders—was a proper exercise of the attorney general's authority with respect to controlling that particular class.

But he found that the 10 individuals were not within the scope of the regulation because on the occasion—they had previously worked at

these farms—of their departure back to Mexico, they had left various indicia, clothing, tools, et cetera, in a rented facility, or in a bunkhouse or dormitory maintained there, such as to find that they were, in fact, returning residents and not the class of person who had a home in Mexico and would be subject to the regulation.

That case is now on appeal to the Ninth Circuit Court.

With respect to another class of individual, the nonimmigrant who arrives from Mexico, usually in a visitor classification: In recent years we have taken over the documentation from the State Department of issuing cards to persons coming into the United States temporarily to visit and there are currently in excess of 2 million cards outstanding.

Holders of cards are limited to an area 25 miles from the border for a period not exceeding 72 hours of entry.

Senator MONDALE. Is this the so-called 72-hour pass you are talking about?

Mr. HENNESSY. Yes.

Senator MONDALE. Does that pass disclose the time of entry, so you know when it expires?

Mr. HENNESSY. Not within the border area, and formerly it did not beyond the 25 miles. Now when a person indicates he wants to go beyond the 25-mile border area or stay here more than 72 hours, he is issued another card or paper on safety paper, indicating the date of his admission, and thus if he is found beyond the 25-mile area solely with the card, he is illegally in the United States, having gone beyond.

If he presents the other piece of paper with it, this will establish when he entered and whether he is beyond the 15-day period that has been authorized.

Senator MONDALE. You have figures of how many of these 72-hour pass holders that go across the border and actually have employment and do so on a regular basis, or who go over on a 72-hour pass and stay for much longer periods of time?

Mr. HENNESSY. It would almost seem there has been collaboration by way of the statement and your question, because in the next paragraph I discuss that.

A second function of the Immigration and Naturalization Service is the location, apprehension, and expulsion of aliens illegally in the United States. During the same fiscal year 212,057 aliens were located illegally in the United States. Of this number 151,705 were Mexican nationals. Of these, 117,184 acknowledged entry without inspection and 25,943 acknowledged that after admission as visitors they had either remained for a longer period of time than permitted or had accepted unauthorized employment.

Senator MONDALE. Does that mean that none of them were caught in 6 months for a violation? In other words, according to your figures, none of those come within the 6-month unemployment provision.

Mr. HENNESSY. No, these are visitors to the United States, for whom employment in the United States is prohibited.

I am not talking about the green carder. The green carder is a person who has a right to remain permanently or indefinitely. The 72-hour pass is a visitor, but a visitor comes into the United States frequently. I would suggest, Senator, that in the subject in which you are interested, the illegal alien who crosses the border as a wetback, or the one who comes in, in the guise of a visitor, and remains

longer can probably have as great or a greater impact upon the conditions of the domestic migrant worker as can the 40,000 green card reservoir.

In fact, one of the greatest difficulties in our enforcement of this law, and I am not in any sense criticizing the practice, but any individual may obtain a social security card. Any person may obtain a social security card.

It is popularly believed that a social security card is a license to work; popularly, but erroneously. But I think the average person who stopped to think of it would believe it was.

These visitors can come in, apply for a social security card, obtain one, and present that to their prospective employer. Lord knows the immigration laws are technical enough, even for the alleged expert, and for the employer to attempt to gage these various clauses is well nigh impossible.

The presentation of the social security card is usually enough to satisfy the employer he is going to comply with the social security laws, income tax withholding, and so forth. This has been one of our greatest obstacles.

Senator MONDALE. You have certain tables that you might put in the record?

Mr. HENNESSY. Yes; tables 19, 27–B, and 35 of the annual report, and, of course, any such tables in that annual report as would further support the inquiry of the committee, but these, at least, are amplifying the statements that I made earlier and may be found printed as an attachment to my prepared statement.

(See tables at the close of the testimony.)

Senator MONDALE. Is a commuter supposed to have employment before he is permitted to come across?

Mr. HENNESSY. No, because by definition he can be out of employment for a period of less than 6 months.

Senator MONDALE. Is a green carder supposed to have employment when he comes across the border?

Mr. HENNESSY. I am sorry. A green carder commuter?

Senator MONDALE. Yes. Is he supposed to have employment when he comes across?

Mr. HENNESSY. He usually has employment, but he may stay out of employment for a period not exceeding 6 months.

Senator MONDALE. I think you indicated that it is very difficult to determine the employment history for that 6 months, and that point is not checked.

Mr. HENNESSY. We are naturally, in line with so many of the other agencies, expanding, and studying the possibilities of various things under automatic data processing and other things that will enable a quicker return of this information when you are dealing with something up in the hundred million range.

The manual operation of these various cards does create problems, and we are canvassing various ways of using electronic data equipment to better control the various classes of persons who would cross.

Senator MONDALE. How many new green cards were issued last year?

Mr. HENNESSY. In the last fiscal year, there were 454,448 persons admitted to the United States as immigrants. That, incidentally, was

the largest year since the 1924 act. There were 43,563 Mexican aliens included in that figure. These are persons who made their initial entry into the United States as immigrants last year.

Senator MONDALE. Would those all be green card holders.

Mr. HENNESSY. They are all now green card holders.

Senator MONDALE. Is that 43,000 new green cards that were issued last year to Mexicans?

Mr. HENNESSY. Yes.

Senator MONDALE. What is your estimate of the total number of green cards in existence today?

Mr. HENNESSY. The total number of green cards in existence today would be 3,506,359, of whom 701,979 are Mexicans.

This information was obtained in accordance with the address-reporting feature of the law.

Senator MONDALE. How many green card holders have had their certificates canceled last year because of the violation of the 6-month rule, or for any other reason?

Mr. HENNESSY. I think this was a statement that you had asked, and we said we would try to get the information to incorporate in the record. It will be small, very, very small.

Senator MONDALE. We know that many of our green card holders are farmworkers, do we not?

Mr. HENNESSY. Yes.

Senator MONDALE. And we know that work is highly seasonal. We know that many of them work during the harvest season or when peak employment is required.

Isn't there a presumption, then, that many of them who reside in Mexico would not have worked in the interval?

Mr. HENNESSY. For the immediate border commuters, I have some figures here that I think would be partially responsive, and I would amplify them.

When we conducted this original survey in November and December 1967, we had 40,000 of what I call the classic commuter, one who comes in daily; 6,800 were industrial workers; 3,140 were building trades and construction workers; 10,700 were sales and service workers; 2,700 were private household workers; and 17,000—the largest figure—were agricultural workers.

Senator MONDALE. That is an annual figure, is that right?

Mr. HENNESSY. No, that is a figure of the persons who were coming in as commuters during a period we were trying to identify them.

Senator MONDALE. Can you break down the number of green card holders engaged in farmwork on a monthly basis?

I assume during the peak of the growing season you have your highest number of farmworkers, and I assume at other points you have a drastically smaller percentage.

Mr. HENNESSY. Yes, I would think this is true, but I cannot document it with precise figures.

Senator MONDALE. You have no percentages?

Mr. HENNESSY. No, Senator. We know generally, apart from the daily commuter.

Senator MONDALE. If the purpose of the green card, among other things, is to prohibit its use by people who have not been working here for a period of 6 months, certainly you must have some idea how many of those farmworkers fall into that category.

Mr. HENNESSY. Yes. I am sorry. In this particular group I think we can do that.

Senator MONDALE. 16,000 have permanent farmwork in the United States?

Mr. HENNESSY. The bulk of those do.

Senator MONDALE. Permanently, day-in and day-out?

Mr. HENNESSY. Yes, Senator. These are not the same as the seasonal workers who may have been on the Mexican side who enter in the spring of the year and move north with the harvest, possibly until September or October or November, and then return.

Senator MONDALE. You mean those figures are different from the 16,000?

Mr. HENNESSY. Yes.

Senator MONDALE. In other words, in addition to the 16,000 there——

Mr. HENNESSY. There are other persons besides, and these are the type against whom the orders to show cause were issued.

Senator MONDALE. Do you have figures of those who fall into that category?

Mr. HENNESSY. We have something in the neighborhood of 4,000 who have been presently identified. It is a much more difficult task to identify the person who makes one entry in the course of the year and moves north with the harvest season, rather than the one who enters daily. We are in the process of identifying those, and we have identified 4,000 of those.

This is a new creature that has come into our vocabulary, the so-called seasonal workers.

Previously, when we talked of a commuter, we talked of a person who lived on the Mexican side, came across for almost daily employment, in an occupation right on the border.

We have now come to talk of an additional class of persons who have their base home in Mexico, and went to the United States for a season of employment, returning to Mexico only when employment in the agricultural area is no longer available, and they usually come in in March or April, and move north with the harvest until the late fall or early winter, when they will return for a period of unemployment.

Senator MONDALE. Senator Schweiker?

Senator SCHWEIKER. Mr. Hennessy, just briefly, would you describe the procedure when a green carder crosses the border from Mexico to the United States. What, if anything, do we check? Do we just look at his green card, and that is it?

Mr. HENNESSY. That is basically about it. The ordinary average entry that is it.

Senator SCHWEIKER. Do we record anything about him?

Mr. HENNESSY. We do not record anything.

Senator SCHWEIKER. If you go out to a farm where there is a strike in process and check, do you actually check there?

Mr. HENNESSY. To find the person is within the scope of the regulation. We have to find that he has a basic home in Mexico, that he entered the United States primarily to go to work at that struck institution or farm, and that he entered the United States subsequent to the finding by the Secretary of Labor that a labor dispute did exist at this particular point.

Senator SCHWEIKER. How do you determine that?

Mr. HENNESSY. We know the dates on which the Secretary has made his particular finding. This becomes a most onerous task. We go to the records of employment to find out whether he had previously been employed, so that prior to the certification by the Secretary——

Senator SCHWEIKER. Who are the employers, the growers?

Mr. HENNESSY. This particular grower. We find out if he had been employed prior to this certification by the Secretary.

Senator SCHWEIKER. How can you be sure that that is accurate?

Mr. HENNESSY. We cannot, except those are the same records that are going to be submitted for income tax, social security, and various other purposes. The records have all the outward indicia of credibility.

We are by nature cynical disbelievers.

Senator SCHWEIKER. Why couldn't we install a time stamp system on green cards so that the green card itself has a time stamp to verify immediately when the person came into this country?

Mr. HENNESSY. Part of the problem is just the sheer volume, particularly the green carder on the border who makes 365 entries a year. He comes in each morning and goes out each night. You can't stamp something physically on the laminated card.

We are studying the prospects of trying to have this done in connection with the automatic data processing. This would be merely one facet of what is quite a problem of controlling various classes of entries.

Senator SCHWEIKER. There are two basic loopholes. That is obviously one, and the other is, why do you under the regulations permit someone who is a green-card holder to come to work at a place of employment where there is a strike if it is obviously a green carder?

As I understand it, as long as he can verify, or certifies that he worked somewhere else first, it doesn't matter whether he comes after the strike started or not. But under the intent of the law, it seems to me he is violating that.

By regulation, why do you permit the person to work there?

Mr. HENNESSY. I am sorry, Senator. The literal language of the law provides this particular prohibition solely to an initial entry, and specifically exempts the person who is returning to the United States following the initial entry.

In fact, there have been various bills that have been introduced which I think is a recognition on the part of the Congress that legislation is required rather than administrative ruling.

There have been bills introduced to require us to make the labor certification provisions applicable once each 6 months to a person who doesn't have a basic home in the United States.

Senator SCHWEIKER. You are saying we have to change the law because of that loophole?

Mr. HENNESSY. Yes.

Senator SCHWEIKER. And it is against people in this category?

Mr. HENNESSY. It specifically relates to the initial entry of a person into the United States as an immigrant, and the person who is making a return is exempt.

Senator SCHWEIKER. It seems to me if we put in a time stamp system and we prohibit people from going to a place that had struck, I think we have solved the problem.

Mr. HENNESSY. I think we would. I must point out the caveat of the court that we might be exceeding our authority.

Senator SCHWEIKER. That is all. Thank you.

Senator MONDALE. Those were excellent questions, Senator Schweiker.

Are there green card applicants that are exempt from the immigration provisions?

Mr. HENNESSY. Yes; any person in the Western Hemisphere who is the spouse, parent, or child of a U.S. citizen, or a green cardholder.

Senator MONDALE. I think that is an important point.

Mr. HENNESSY. This is a pyramid that you can build on.

Senator MONDALE. Once a father of a large family is granted a green card, his wife and his adult children all receive green cards immediately, with no finding whatsoever that they have been unemployed or employed, or that they adversely affect the labor market.

Senator SCHWEIKER. I think that is a third loophole.

Senator MONDALE. Yes; and it can be any number. I am impressed by the sizes of some of the Mexican families.

Do you have any numbers on the green cards issued when there is no certification?

Mr. HENNESSY. I would have to refer to the Department of State, which issues the original visa, but I would say the bulk of cases coming in from Mexico are exempted.

This has become a part of the investigation of frauds that I have indicated earlier, persons attempting to establish relationships to holders of green cards that would exempt them.

Senator MONDALE. Someone could say, "I am the son of the green cardholder," and he may not be?

Mr. HENNESSY. That is right.

Senator MONDALE. Is that a substantial problem?

Mr. GREEN. It is a growing problem.

Senator MONDALE. I would like any figures that you have got to show the number who come under the nonpreference exemptions; also, you have mentioned the problem of fraud.

Mr. HENNESSY. In addition to this, yes.

Senator MONDALE. Senator Schweiker suggested that a green card might hold within it a requirement of a stamp giving times of entry and employment.

Why couldn't that be done?

Mr. HENNESSY. With respect to the classic commuter? I think it possibly can. But frankly, those persons down on the border who are coming in for daily employment, when the regulation was written, this was the class that we primarily had in mind.

Senator MONDALE. That is an enormous source, and could have an enormously adverse impact on this situation.

Mr. HENNESSY. Yes. The commuter who is making a daily entry, we have a better chance of locating and identifying him with respect to the particular struck plant.

Unfortunately, most of these places are far from the border, and the person is not making a daily entry.

Senator, we are adverting to the possibility, when your bill is passed, that we will be required by statute to set up a very definite machinery for the control of these persons, because a new labor certification will be required at least once each 6 months, and that it will go beyond the requirement of the initial certification.

Senator MONDALE. Could you do that under your present authority?

Mr. HENNESSY. No, no, sir.

I think that that was why the need for legislation was recognized. I understand there is a similar bill in the House with a number of sponsors.

Mr. GORDON. Senator, could I correct something that came up earlier?

You stated that when the baptismal certificates come up, the person can use them. There is a statute that makes a willful claim of citizenship which is false, a felony.

Senator MONDALE. Would you supply the number for the record of those prosecuted under that statute?

Mr. GORDON. This is 18 U.S.C. 1001, and a person who makes a fraudulent claim for citizenship, there is an offense.

Mr. HENNESSY. It would indicate there are no shortages of statutes being violated in this field.

Senator MONDALE. I think you made reference earlier to the illegal problem and the false claims problem. Aren't these problems getting worse, and not better?

Mr. HENNESSY. That is correct.

Senator MONDALE. Can you describe portions of this trend?

Mr. HENNESSY. I think I will be in a position to submit a chart to you showing the escalation of this figure over the last decade, or two decades.

Senator MONDALE. Can you tell us how adequate you think the funding is for your Department to fulfill the spirit of the rules that you are supposed to be enforcing?

Mr. HENNESSY. I can only say that the Appropriations Committees have in both instances in both Houses appropriated the funds that the Department of Justice has asked for this particular purpose.

Senator MONDALE. You are beginning to sound like a politician. [Laughter.]

Mr. HENNESSY. I am sure you intended that as a compliment.

Senator MONDALE. What I am getting at is that I stood along the border, and I have some sympathy for the immigration officials. Farmworkers come across from Mexico in a massive human wave. They present various kinds of certificates for admission.

I doubt that the border officials I was watching had more than 20 seconds a person at the most. If they had taken more, you would have——

Mr. HENNESSY. A line backed up to Mexico City. [Laughter.]

Senator MONDALE. It would have taken hours. This was one point I picked at random in southern Texas. Congressman O'Hara testified to the same thing.

They can't possibly know whether it is a valid baptismal certificate. Whenever there is a factual determination involved, I don't think

these officials can possibly do a thing about it. Thus, the only hope is that later on that we should refuse to accept certain kinds of certificates, like a baptismal certificate. My personal opinion is that you shouldn't accept a baptismal certificate as evidence of citizenship until it has, in fact, been investigated and determined to be true and stamped in some way, so that it is an official document.

You would have authority to do that, wouldn't you?

Mr. HENNESSY. There is some question that a person, being a citizen, that we can require specific documentation. We make available to a citizen crossing the border——

Senator MONDALE. That begs the question. If he is a citizen, I agree. As I have indicated, I am very skeptical that many of these are citizens. Otherwise, they would produce an official birth certificate, which many of them did.

Mr. HENNESSY. Senator, I must point out, however, we are talking about one problem on the Mexican border with respect to one particular group.

I would suggest that as far as both borders are concerned, for all groups I am not too sure that we should require every U.S. citizen to carry with him, in effect, a passport when he would merely be making a trip across the borders.

Senator MONDALE. Well, as I understood your somewhat oblique answer to my question, you are vastly underfunded and understaffed to enforce the factual determinations that had been made.

Mr. HENNESSY. We could find more illegal aliens if we had more bodies on our staff. There is no doubt about it.

Senator MONDALE. I assume that the nonresident alien commuter knows that, just like every other law violator knows, and he plays his odds, and he figures the odds are pretty good.

He also knows that that border official doesn't have time to check these things, so that his chances of being caught are, if he wants to play the odds, relatively remote.

In light of the fact that your budgets are inadequate, and laws are highly technical and exceedingly difficult to enforce, would you not feel that—and the problems with illegals is a rapidly rising problem—would you not feel that this is an area, then, that cries out for reform and increased assistance?

Mr. HENNESSY. I could not possibly quarrel with it, of course.

Senator MONDALE. Mr. Mittelman.

Mr. MITTELMAN. This might be out of your bailiwick. I was wondering if there have been any problems in connection with these alien commuters paying their income taxes and registering for the draft and performing the general obligations that are attached to permanent alien status.

Mr. HENNESSY. The employer pays the taxes, withholding taxes, in most instances. I would suggest that this could possibly be done with respect to the Internal Revenue and social security services.

Senator MONDALE. That is right.

Mr. MITTELMAN. It is my understanding that they do not withhold income taxes from agricultural workers.

Mr. HENNESSY. I am not too sure of my expertise on immigration, but I am vastly incompetent on taxation.

Senator MONDALE. It is true that a Mexican commuter may claim 15 kids, and you don't know how many he has, and you don't collect any income tax.

We talked to many of these workers—we talked to one girl who made $2 all day, and the crew leader took 50 cents out of it for what he said was social security, no form or anything documenting the withholding was provided.

Mr. MITTELMAN. Just one more question.

I would like to explore a question Senator Schweiker asked you a little further. Assume that you go to check a farm that is certified as having a labor dispute, and you find a worker who began work on July 15, when the strike started on July 10.

The worker tells you he crossed the border on June 15, and worked for various employers. Can you check on that?

Mr. HENNESSY. Yes, we will check on the previous employers, and check with the Mexican authorities with respect to his records down there.

We have spent hundreds of man-hours trying to run down a case and have come up with a meaningless cipher at the end.

Mr. MITTELMAN. You can call up an airline and find out where anyone is in the world. They have thousands of passengers.

Is it really so complicated to get a machine, so that someone crossing the border would drop the green card in and a record made of his name and the date and place of crossing?

Mr. HENNESSY. It is not difficult. It is expensive. It runs in the neighborhood of $15 million.

Senator MONDALE. And it might save this country and contribute substantially to a profound human problem which is costing the farmworkers of this country millions and millions of dollars and depriving them of a decent life.

Mr. HENNESSY. I am not indicating the cost figure is too high, but I am saying this is a subject that, unfortunately, in this whole data processing, a machine is obsolete—I know you reach the mañana business of eventually you have to fish or cut bait and go into it.

Senator MONDALE. This would require a fairly early generation computer. It is not anything important like circling the moon or shooting at the Russians.

Mr. HENNESSY. I can't quarrel with that.

Mr. MITTELMAN. You don't need a computer, if you do what they do at the parking lot at National Airport. It seems to me that a green card could be issued in such a form that it is able to be put into a machine and the machine actually time stamps it. Anyone can tell when the worker last crossed the border just by looking at his card. That would also solve the 6-month problem that was explored earlier. If, when the man tries to cross the border you see from his card whether this man last crossed the border more than 6 months ago.

Mr. HENNESSY. In that particular instance, yes.

Mr. MITTELMAN. It shouldn't be that complicated.

Mr. Hennessy. I would like to say that everything you have said, I would be in complete agreement with, and I would hope that we will have additional ways of getting some parts of it, and I could go into this later in more detail.

Senator Mondale. I have a host of questions, and it is now that I would like to submit to you for the record, and ask you to place your written responses in the record at the conclusion of our hearings.

Also, in view of the interruptions of your prepared statement, I order it printed in full at this point in the record.

Thank you very much.

Mr. Hennessy. Thank you.

(The prepared statement of Mr. Hennessy follows:)

Prepared Statement of James L. Hennessy, Executive Assistant to the Commissioner, Immigration and Naturalization Service

The Committee is interested in the numbers and classes of individuals whom the Immigration Service examines and permits to enter the United States across the Mexican-United States border. With full appreciation that some of this information is very elementary and is well known to the Committee, the following outline of our procedures and practices is submitted for incorporation in your record. In the past fiscal year ending on June 30, 1968, the Immigration and Naturalization Service examined and passed for entry into the United States across the Mexican border a total of 135,844,365 individuals. Of these 53,776,297 were citizens and 82,068,068 were aliens.

The mandate of the Immigration and Naturalization Service is to inspect aliens to determine their admissibility under thirty-one separate and distinct statutory grounds of excludability. Our examination of persons claiming to be United States citizens is strictly limited to determining that fact. If an individual, by response to questions or the submission of various documents, establishes to the satisfaction of the examining inspector that he is a citizen of the United States, the jurisdiction of this Service over him ceases and he is not subject to any further questioning as to his purpose, intended length of stay, etc.

The aliens who apply for admission are divided into two classes. First immigrants. These are aliens who have been accorded the right to reside permanently in the United States. Usually they have received an immigrant visa from a United States Consul abroad. Once they have made an initial entry with that visa, which is surrendered to the immigration officer at the port of entry, they are issued a green/blue laminated alien registration card. This card serves a dual purpose of being an identity document and also a travel document which enables them to reenter the United States, following departures to Mexico or any other foreign place, without the necessity of obtaining a new consular-issued immigrant visa. According to the alien address reports filed in January 1969, there were 3,506,359 such permanent residents in the United States. Of these 701,979 were Mexican nationals. The preliminary figures indicate that 369,606 of these Mexican nationals resided in California; 198,886 were in Texas; 35,725 were resident in Arizona; and 10,339 were in New Mexico. The 45,309 in Illinois constituted the largest number in a non-border state.

The Mexican "commuter" immigrant is a Mexican national who, unlike the three and one-half million other immigrants in this country, maintains his home in Mexico and enters the United States for employment on an almost daily basis. This practice of commuting in its current form has continued, with the approval of the Immigration and Naturalization Service and with the knowledge of the Congress, since at least January 1, 1930, following the Supreme Court decision of Karnuth v. Albro, 279 US 231. The better to identiy the "commuter," commencing early in November 1967 the Service arranged for the insertion of a metal grommet in the "green card" of each "commuter". The cumulative report on "commuters" for the month of April 1969 indicates there are 46,756 such on the Mexican border.

The second general classification of alien is the nonimmigrant. The nonimmigrant arriving from Mexico is usually in the "visitor" classification. In recent years the Service has taken over from the Department of State responsibility of documenting the nonimmigrant visitor from Mexico, and issues upon application, a finding of admissibility, and a determination of the alien's bona fides, a non-resident border crossing card. Currently there are outstanding in excess of two million such cards.

Holders of these cards are currently limited to an area within twenty-five miles of the border and for a period not exceeding seventy-two hours following any entry. Holders of the cards, who seek to enter for a period up to fifteen days or to visit anywhere in the four border states, who satisfy the examining officer of their bona fides, are given a small printed notice, on safety paper, which reflects the date and place of admission and the serial number of the card. A Mexican citizen who satisfies the officer that he has a legitimate need to go beyond the border states or to remain in excess of fifteen days is given the same type entry control card given to an alien entering the United States from any other area of the world.

A second function of the Immigration and Naturalization Service is the location, apprehension, and expulsion of aliens illegally in the United States. During the same fiscal year 212,057 aliens were located illegally in the United States. Of this number 151,705 were Mexican nationals. Of these, 117,184 alleged entry without inspection and 25,943 acknowledged that after admission as visitors they had either remained for a longer period of time than permitted or had accepted unauthorized employment.

There are introduced for the record the following statistical tables, which are a part of the 1968 Annual Report of the Immigration and Naturalization Service, and which expand on the figures which I have already given.

Table 19—Entries of Alien and Citizen Border Crossers.

Table 27–B—Deportable Aliens Located.

Table 35—Aliens Who Reported under the Alien Address Program.

(The tables referred to follow:)

TABLE 19.—ENTRIES OF ALIEN AND CITIZEN BORDER CROSSERS OVER INTERNATIONAL LAND BOUNDARIES BY STATE AND PORT: YEAR ENDED JUNE 30, 1968

[Each entry of the same person counted separately]

State and port	All persons crossing		
	Total	Aliens	Citizens
All ports[1]	205,762,516	119,673,849	86,088,667
Canadian border	69,918,151	37,605,781	32,312,370
Alaska	163,563	18,795	144,768
Anchorage	505	227	278
Eagle	1,484	60	1,424
Fairbanks	4,994	393	4,601
Haines	26,514	4,137	22,377
Hyder	6,615	5,109	1,506
Juneau	4,284	362	3,922
Ketchikan	16,589	2,071	14,518
Skagway	24,821	2,871	21,950
Tok	77,413	3,498	73 915
Wrangell	344	67	277
Idaho	399,767	239,388	160,379
Eastport	240,027	135,403	104,624
Porthill	159,740	103,985	55,755
Illinois	49,481	16,557	32,924
Chicago	49,481	16,557	32,924

TABLE 19.—ENTRIES OF ALIEN AND CITIZEN BORDER CROSSERS OVER INTERNATIONAL LAND BOUNDARIES BY STATE AND PORT: YEAR ENDED JUNE 30, 1968—Continued

State and port	All persons crossing		
	Total	Aliens	Citizens
Maine	10,291,579	6,518,223	3,773,356
Bangor	61,392	30,198	31,194
Bridgewater	157,994	101,198	56,796
Calais	(2,798,652)	(1,755,585)	(1,043,067)
Ferry Point	2,412,012	1,505,228	906,784
Milltown Bridge	386,640	250,357	136,283
Coburn Gore	101,869	70,946	30,923
Daaquan	42,748	39,280	3,468
Easton	30,589	18,853	11,736
Eastport	16,503	10,778	5,725
Eastcourt	14,410	9,419	4,991
Forest City	17,195	11,174	6,021
Fort Fairfield	522,810	344,852	177,958
Fort Kent	872,996	540,287	332,709
Hamlin	244,306	194,582	49,724
Houlton	539,519	345,753	193,766
Jackman	396,563	211,849	184,714
Limestone	209,194	111,948	97,246
Lubec	300,169	183,818	116,351
Madawaska [2]	2,575,296	1,627,570	947,726
Mars Hill-Knoxford line	4,547	3,209	1,338
Monticello	6,329	4,559	1,770
Orient	30,042	17,371	12,671
St. Aurelie	38,933	36,809	2,124
St. Juste	841	800	41
St. Pamphile	22,300	20,910	1,390
Van Buren	875,550	545,392	330,158
Vanceboro	410,832	281,083	129,749
Michigan	16,080,912	7,489,345	8,591,567
Algonac	91,205	64,729	26,476
Alpena	148	20	128
Amherstburg [3]	44,885	32,508	12,377
Cheboygan [4]	38	7	31
Detour [5]	214	51	163
Detroit	(10,774,641)	(4,940,483)	(5,834,158)
Ambassador Bridge	3,832,927	1,392,803	2 440 124
Detroit & Canada Tunnel	6,903,868	3,535,782	3,368 086
Detroit City Airport	4,703	1,065	3 638
Detroit Metropolitan Airport	3,397	675	2 722
Detroit River and River Rouge Terminals	18,962	1,662	17 300
Michigan Central Depot	10,784	8,496	2,288
Houghton	189	22	167
Isle Royale	281	166	115
Mackinac Island [4]	6	6	
Marine City	105,378	67,315	38,063
Marquette	377	35	342
Muskegon	373	56	317
Port Huron [2]	(3,496,129)	(1,625,944)	(1 870 185)
Blue Water Bridge	3,413,026	1,581,661	1,831 365
Canadian National Railway Station	83,103	44,283	38 820
Roberts Landing	112,002	62,932	49 070
St. Clair County Airport	1,788	597	1 191
Sault Ste. Marie	1,453,258	694,474	758,784
Minnesota	1,909,164	849,242	1,059,922
Baudette [2]	159,150	106,105	53,045
Crane Lake	7,887	1,607	6,280
Duluth	6,478	2,620	3,858
Ely	25,067	1,839	23,228
Grand Marais	4,058	61	3 997
Grand Portage	312,311	107,558	204 753
Indus	252	122	130
International Falls [2]	896,292	318,109	578 183
Lancaster	59,770	38,950	20,820
Noyes	240,731	134,248	106,483
Oak Island [5]	2,219	390	1 829
Pine Creek	33,206	21,311	11 895
Ranier	7,433	482	6,951
Roseau	42,364	29 384	12,980
St. Paul	3,804	609	3,195
Warroad	108,142	85,847	22,295

TABLE 19.—ENTRIES OF ALIEN AND CITIZEN BORDER CROSSERS OVER INTERNATIONAL LAND BOUNDARIES BY STATE AND PORT: YEAR ENDED JUNE 30, 1968—Continued

State and port	All persons crossing		
	Total	Aliens	Citizens
Montana	926,484	484,607	441,877
Chief Mountain [3]	104,162	24,802	79,360
Cut Bank (airport)	874	254	620
Del Bonita	12,155	4,579	7,576
Great Falls (airport)	35,023	15,731	19,292
Havre	456	128	328
Morgan	15,981	11,703	4,278
Opheim	14,682	8,481	6,201
Piegan	162,239	77,843	84,396
Raymond	82,778	55,469	27,309
Roosville	70,192	28,357	41,835
Scobey	22,283	16,790	5,493
Sweetgrass	350,307	203,857	146,450
Turner	19,614	12,174	7,440
Whitetail	13,915	11,392	2,523
Whitlash	3,425	1,742	1,683
Wild Horse	10,629	5,425	5,204
Willow Creek	7,769	5,880	1,889
New Hampshire	24,610	13,769	10,841
Pittsburg	24,610	13,769	10,841
New York	24,633,959	12,494,666	12,139,293
Alexandria Bay [7]	9,578	4,854	4,724
Black Rock	57,976	35,982	21,994
Buffalo	(7,415,814)	(3,382,937)	(4,032,877)
Buffalo Seaport	47	26	21
Greater Buffalo International Airport	9,224	2,397	6,827
Peace Bridge [2]	7,406,543	3,380,514	4,026,029
Cannons Corners	39,392	28,452	10,940
Cape Vincent	36,069	14,457	21,612
Champlain	4,371,964	1,944,402	2,427,562
Chateaugay	105,571	70,657	34,914
Churubusco	44,330	22,462	21,868
Clayton [8]	115,683	45,885	69,798
Fort Covington	356,893	163,532	193,361
Heart Island [3]	85,083	46,767	38,316
Hogansburg	298,176	183,003	115,173
Jamison's Line	17,490	10,723	6,767
Lewiston [2]	1,677,988	1,006,782	671,206
Massena	939,357	597,519	341,838
Mooers	229,254	130,441	98,813
Niagara Falls	(5,200,883)	(3,063,762)	(2,137,121)
Municipal Airport	1,191	231	960
Rainbow Bridge [2]	4,300,374	2,552,430	1,747,944
Whirlpool Rapids Bridge [2]	899,318	511,101	388,217
Ogdensburg	535,220	312,098	223,122
Oswego [9]	138	109	29
Rochester	(1,270)	(345)	(925)
Municipal airport	1,268	344	924
Port authority	2	1	1
Rouses Point	646,009	410,413	235,596
Syracuse	10,598	6,094	4,504
Thousand Island Bridge	1,697,306	604,746	1,092,560
Trout River	726,364	402,387	323,977
Watertown (airport)	2,669	465	2,204
Youngstown [3]	12,884	5,392	7,492
North Dakota	1,272,711	651,267	621,444
Ambrose	15,648	8,974	6,674
Antler	19,341	12,150	7,191
Carbury	15,765	12,611	3,154
Dunseith	199,932	56,035	143,897
Fortuna	32,570	19,335	13,235
Grand Forks (municipal airport)	3,537	838	2,699
Hannah	12,347	7,690	4,657
Hansboro	20,816	9,878	10,938
Maida	30,338	18,725	11,613
Minot (airport)	2,439	555	1,884
Neche	100,443	60,015	40,428
Noonan	64,424	38,372	26,052
Northgate	48,886	25,030	23,856
Pembina	273,787	146,676	127,111

TABLE 19.—ENTRIES OF ALIEN AND CITIZEN BORDER CROSSERS OVER INTERNATIONAL LAND BOUNDARIES BY STATE AND PORT: YEAR ENDED JUNE 30, 1968—Continued

State and port	All persons crossing		
	Total	Aliens	Citizens
North Dakota—Continued			
Portal [2]	251,742	136,455	115,287
St. John	42,299	22,988	19,311
Sarles	20,732	7,542	13,190
Sherwood	25,987	16,785	9,202
Walhalla	57,172	29,237	27,935
Westhope	33,790	21,214	12,576
Williston, Sloulin Field	716	162	554
Ohio	43,553	14,444	29,109
Cleveland	26,249	13,027	13,222
Sandusky	16,144	1,151	14,993
Toledo	1,160	266	894
Vermont	5,263,809	3,085,201	2,178,608
Alburg	134,073	80,000	54,073
Alburg Springs	78,020	65,101	12,919
Beebe Plain	250,079	156,374	93,705
Beecher Falls	239,195	147,606	91,589
Burlington Airport	10,871	1,607	9,264
Canaan	120,724	69,273	51,451
Derby Line	1,265,542	747,778	517,764
East Richford	120,845	76,611	44,234
Highgate Springs	1,044,723	487,974	556,749
Morses Line	35,163	18,809	16,354
Newport	10,449	8,536	1,913
North Troy	367,449	222,801	144,648
Norton	852,220	546,703	305,517
Richford	512,561	321,213	191,348
St. Albans	6,129	2,805	3,324
West Berkshire	215,766	132,010	83,756
Washington	7,054,585	4,680,567	2,374,018
Anacortes	76,015	12,014	64,001
Bellingham	5,313	1,619	3,694
Blaine	(3,577,867)	(2,352,250)	(1,225,617)
Pacific Highway	204,521	141,559	62,962
Peace Arch	3,373,346	2,210,691	1,162,655
Boundary	24,697	17,398	7,299
Danville	55,900	28,240	27,660
Ferry	26,061	19,284	6,777
Frontier	149,763	103,687	46,076
Laurier	62,480	29,601	32,879
Lynden [2]	392,358	208,639	183,719
Metaline Falls	57,285	28,198	29,087
Neah Bay	151	13	138
Oroville	508,843	268,697	240,146
Point Roberts	1,186,970	1,082,521	104,449
Port Angeles	2,025	793	1,232
Port Townsend	820	73	747
Seattle	72,298	21,829	50,469
Spokane (Felts Field)	6,726	2,887	3,839
Sumas	848,907	502,735	346,172
Tacoma	106	89	17
Wisconsin	1,372	530	842
Green Bay	150	78	72
Milwaukee	1,137	443	694
Racine	85	9	76
Canada	1,802,602	1,049,180	753,422
Montreal, Quebec	530,296	331,691	198,605
Prince Rupert, B.C.	28,131	2,086	26,045
Toronto, Ontario (Malton Airport)	703,306	528,558	174,748
Vancouver, B.C.	195,096	109,531	85,565
Victoria, B.C.	293,815	51,436	242,379
Winnipeg, Manitoba	51,958	25,878	26,080

TABLE 19.—ENTRIES OF ALIEN AND CITIZEN BORDER CROSSERS OVER INTERNATIONAL LAND BOUNDARIES BY STATE AND PORT: YEAR ENDED JUNE 30, 1968—Continued

State and port	All persons crossing		
	Total	Aliens	Citizens
Mexican Border	135,844,365	82,068,068	53,776,297
Arizona	19,126,974	12,368,316	6,758,658
Douglas [2]	3,976,828	2,184,559	1,792,269
Lochiel	11,300	7,358	3,942
Lukeville	415,392	113,915	301,477
Naco	1,186,620	617,504	569,116
Nogales	(9,020,581)	(5,860,845)	(3,159,736)
Grand Ave	5,839,995	3,784,041	2,055,954
Morley Ave	3,119,593	2,038,414	1,081,179
Nogales International Airport	6,844	1,927	4,917
Truck Gate	54,149	36,463	17,686
San Luis	4,394,775	3,512,527	882,248
Sasabe	106,462	70,639	35,823
Tucson International Airport	15,016	969	14,047
California	39,626,879	24,026,952	15,599,927
Andrade	571,766	371,541	200,225
Calexico	13,422,482	10,179,305	3,243,177
Los Angeles (Airport)	135,215	14,156	121,059
San Diego	11,575	1,443	10,132
San Vsidro [2]	24,778,592	13,024,470	11,754,122
Tacate	707,249	436,037	271,212
New Mexico	277,659	137,036	140,623
Antelope Wells	4,971	3,564	1,407
Columbus [2]	272,688	133,472	139,216
Texas	76,812,853	45,535,764	31,277,089
Brownsville	9,086,640	5,904,021	3,182,619
Corpus Christi	242	54	188
Dallas Airport	37,225	1,042	36,183
Del Rio	2,468,146	1,108,456	1,359,690
Eagle Pass	5,570,942	3,724,110	1,846,382
El Paso [2]	(35,555,447)	(18,834,479)	(16,720,968)
El Paso Airport	6,983	1,749	5,234
Avenue of Americas (Cordova) [2]	13,997,045	5,924,398	8,072,647
Santa Fe Bridge [2]	18,687,329	11,762,695	6,924,634
Ysleta Bridge [2]	2,864,090	1,145,637	1,718,453
Fabens	511,766	336,961	174,805
Falcon Heights [2]	600,322	156,021	444,301
Fort Hancock	50,463	35,711	14,752
Hidalgo [2]	6,418,832	4,491,724	1,927,108
Houston Airport	23,778	968	22,810
Laredo	(11,904,125)	(7,940,491)	(3,963,634)
Laredo	11,887,345	7,932,194	3,955,151
Municipal Airport	5,884	2,888	2,996
Railroad Bridge	10,896	5,409	5,487
Los Ebanos	66,857	40,015	26,842
Marathon	8,059	4,876	3,183
Presidio	477,323	285,949	191,374
Progreso	987,572	590,968	396,604
Rio Grande City [2]	255,666	196,013	59,653
Roma [2]	2,690,637	1,879,797	810,840
San Antonio Airport	98,455	3,784	94,671
San Ygnacio	356	324	32

[1] Figures include arrivals by private aircraft at border ports.
[2] Partially estimated
[3] July–September 1967 and May–June 1968.
[4] July–September 1967.
[5] July–November 1967 and May–June 1968.
[6] July–November 1967 and January–June 1968.
[7] July–October 1967.
[8] July–October 1967 and May–June 1968.
[9] July–December 1967 and April–June 1968.

TABLE 27B.—DEPORTABLE ALIENS LOCATED, BY STATUS AT ENTRY AND NATIONALITY, YEAR ENDED JUNE 30, 1968

Nationality	Number located	Status at entry										
		Agricultural worker	Visitor	Student	D–1 crewmen		D–2 crewmen		Immigrant	Stowaway	Entry without inspection	Other
					Nonwillful violator	Willful violator	Nonwillful violator	Willful violator				
All countries	212,057	660	57,114	5,641	10,447	2,361	868	73	1,671	122	121,047	12,053
Europe	15,520	156	7,738	632	3,585	1,435	624	49	144	32	268	857
Greece	3,261	2	599	121	1,250	914	162	31	15	1	30	136
Italy	2,915	1	2,501	77	58	97	10	-	18	17	28	108
Scandinavia [1]	1,495	-	158	28	888	64	303	6	5	-	12	31
Spain	934	145	232	26	139	137	40	4	-	3	9	199
United Kingdom	1,926	4	991	134	477	62	35	3	35	2	78	105
Yugoslavia	407	-	322	15	2	35	1	-	3	2	13	14
Other Europe	4,582	4	2,935	231	771	126	73	5	68	7	98	264
Asia	15,488	7	3,433	3,171	5,506	739	76	5	192	10	48	2,301
China	5,900	1	588	992	2,561	662	8	1	173	4	38	872
Philippines	3,121	3	1,451	311	341	30	53	3	8	1	5	915
Other Asia	6,467	3	1,394	1,868	2,604	47	15	1	11	5	5	514
North America	167,994	216	36,995	426	240	62	41	3	1,236	22	120,544	8,209
Canada	11,056	98	7,138	134	10	6	1	-	123	1	3,088	457
Mexico	151,705	71	25,943	102	34	7	6	-	1,076	4	117,184	7,278
Cuba	591	-	216	13	6	10	-	-	22	2	202	120
Dominican Republic	2,101	-	1,913	32	17	21	13	2	4	7	9	83
British West Indies and British Honduras	2,541	47	1,785	145	173	18	21	1	11	8	61	271
Other Western Hemisphere	10,953	278	8,001	890	746	91	112	9	81	57	158	530
Other nationalities	2,102	3	947	522	370	34	15	7	18	1	29	156

[1] Denmark, Norway, Sweden, and Iceland.

TABLE 35.—ALIENS WHO REPORTED UNDER THE ALIEN ADDRESS PROGRAM, BY SELECTED NATIONALITIES AND STATES OF RESIDENCE: DURING 1968

State of residence	Grand total	Total permanent residents	Mexico	Canada	United Kingdom	Germany	Italy	Cuba	Poland
Total	3,867,304	3,405,177	684,533	384,539	286,997	228,830	226,595	207,561	125,209
Alabama	6,383	5,398	85	526	939	1,474	91	249	27
Alaska	2,834	2,618	109	804	281	430	15	7	17
Arizona	48,144	44,939	33,445	3,919	1,597	1,229	218	79	93
Arkansas	2,761	2,335	138	281	382	514	67	66	35
California	923,145	858,674	364,249	93,741	61,902	36,095	15,010	12,707	3,107
Colorado	21,776	18,582	3,152	2,264	2,042	3,506	605	359	289
Connecticut	93,085	86,830	176	15,557	8,559	4,744	15,703	1,701	10,104
Delaware	5,454	4,897	33	531	958	553	275	286	360
District of Columbia	19,933	14,539	387	621	1,909	794	690	577	88
Florida	241,081	149,810	1,712	18,223	11,337	5,088	1,354	83,042	713
Georgia	15,516	12,636	174	1,305	2,692	3,241	171	1,176	61
Hawaii	47,882	43,767	77	1,283	1,099	686	53	19	8
Idaho	4,524	4,055	928	882	332	359	39	7	11
Illinois	252,545	225,021	38,806	14,102	12,595	24,020	16,246	7,099	27,8 ·0
Indiana	28,724	24,773	4,373	2,672	3,003	2,909	459	533	1,247
Iowa	11,910	8,888	729	1,442	1,026	1,516	232	222	386
Kansas	11,703	8,962	2,512	937	918	1,546	91	355	87
Kentucky	6,9.0	5,694	77	776	806	1,697	135	195	50
Louisiana	20,965	16,397	820	861	1,700	1,333	880	1,689	67
Maine	19,943	19,095	22	14,986	956	542	198	38	156
Maryland	45,205	38,549	312	3,342	6,093	5,174	3,227	1,558	1,477
Massachusetts	149,654	136,632	253	33,673	12,711	4,602	14,922	2,259	7,850
Michigan	144,272	132,432	6,279	42,726	14,707	10,757	7,222	1,150	12,064

Minnesota	21,609	17,756	453	4,094	1,497	2,090	177	228	344
Mississippi	3,907	3,011	68	281	558	606	94	66	16
Missouri	22,174	17,693	1,579	1,703	1,954	3,122	1,422	509	586
Montana	4,259	3,6.4	236	1,322	450	400	64	9	74
Nebraska	6,667	5,829	1,013	580	592	943	186	156	127
Nevada	8,584	7,854	1,553	1,444	931	688	185	553	38
New Hampshire	12,136	11,134	26	7,029	900	476	112	63	444
New Jersey	208,222	175,143	507	8,883	18,163	15,445	25,715	22,973	13,471
New Mexico	15,028	13,525	10,261	577	612	574	89	137	18
New York	708,823	629,042	2,917	40,569	56,576	39,512	87,658	39,900	26,071
North Carolina	13,802	11,013	170	1,319	1,917	2,415	165	543	52
North Dakota	3,135	2,574	24	900	305	272	7	5	28
Ohio	93,159	83,359	1,739	8,511	8,975	7,953	7,617	1,165	5,459
Oklahoma	9,370	6,827	941	751	929	1,729	76	95	48
Oregon	23,542	20,648	1,582	6,703	2,196	1,676	299	194	103
Pennsylvania	104,741	93,387	561	5,826	11,733	10,062	17,349	2,196	7,713
Rhode Island	21,273	19,763	21	2,563	1,883	595	2,546	202	899
South Carolina	6,341	5,691	46	676	1,297	1,142	64	214	38
South Dakota	1,580	1,210	24	240	174	14	9	15	8
Tennessee	8,475	6,158	84	920	1,087	1,210	154	365	64
Texas	242,024	230,946	194,830	4,435	5,838	6,997	715	2,481	306
Utah	11,962	10,510	898	1,678	1,584	1,666	189	18	20
Vermont	7,823	7,206	23	5,118	595	300	133	18	155
Virginia	27,815	23,194	262	2,455	4,109	3,723	718	1,490	131
Washington	55,326	51,156	3,215	16,833	6,101	4,350	883	246	377
West Virginia	5,374	4,575	70	257	545	454	668	114	354
Wisconsin	33,217	28,385	1,832	2,745	2,141	6,985	1,237	397	2,096
Wyoming	2,030	1,701	410	287	210	169	34	3	12
U.S. territories and possessions:									
Guam	10,269	4,744	16	40	64	38	2	2	----
Puerto Rico	47,167	35,733	318	238	391	303	118	17,750	10
Virgin Islands	12,121	6,153	6	108	4,141	112	7	72	----

TABLE 35.—ALIENS WHO REPORTED UNDER THE ALIEN ADDRESS PROGRAM, BY SELECTED NATIONALITIES AND STATES OF RESIDENCE: DURING 1958—Continued

State of residence	China [1]	Philippines	Portugal	Japan	Ireland	Dominican Republic	Greece	Netherlands	All other permanent residents	Other than perma ent residents
Total	72,712	61,852	58,793	58,375	53,679	53,525	52,705	48,780	800,492	471,127
Alabama	106	64	18	183	109	1	114	49	1,363	985
Alaska	29	127	29	88	47	1	14	29	618	216
Arizona	486	295	28	243	100	14	84	247	2,862	3,205
Arkansas	89	25	3	100	29	2	24	28	552	426
California	27,695	22,103	13,418	23,691	5,791	471	3,619	20,166	154,909	64,471
Colorado	209	118	8	565	157	7	260	461	4,580	3,194
Connecticut	363	401	4,419	241	1,788	143	1,743	644	20,535	6,253
Delaware	104	72	5	74	133	5	116	150	1,242	557
District of Columbia	648	303	55	127	183	218	485	114	7,340	5,394
Florida	385	517	131	660	640	811	637	846	23,714	91,271
Georgia	182	98	28	236	172	16	198	154	2,732	2,880
Hawaii	1,449	21,020	144	14,938	35	----------	22	158	2,776	4,115
Idaho	91	38	2	160	22	----------	30	80	1,074	469
Illinois	2,780	1,839	81	1,612	6,852	403	8,016	2,669	60,051	27,524
Indiana	363	278	13	353	226	39	822	593	6,890	3,951
Iowa	125	113	2	100	101	2	167	339	2,386	3,022
Kansas	175	84	5	252	59	4	46	97	1,794	2,741
Kentucky	91	100	9	150	78	12	67	76	1,375	1,216
Louisiana	202	124	24	190	110	29	108	171	8,089	4,568
Maine	35	84	17	97	134	3	113	25	1,689	848
Maryland	1,038	519	95	703	34	130	1,315	571	12,956	6,656
Massachusetts	2,800	356	22,579	521	5,466	327	5,026	1,273	22,014	13,022
Michigan	1,101	687	33	619	1,249	77	2,392	3,214	28,205	11,790
Minnesota	331	187	6	170	172	3	161	323	7,520	3,853
Mississippi	236	70	13	106	82	5	48	27	735	896
Missouri	328	299	18	337	324	29	358	236	4,893	4,481

Montana	49	49	5	82	50	----------	28	49	817	575
Nebraska	67	64	5	120	56	----------	72	34	1,814	838
Nevada	192	132	35	154	93	1	78	94	1,683	730
New Hampshire	49	24	49	55	123	5	502	56	1,221	1,002
New Jersey	1,594	807	5,322	646	3,442	1,632	3,573	2,599	50,371	33,079
New Mexico	61	63	4	125	29	4	42	100	829	1,503
New York	17,495	2,078	3,964	2,606	20,057	39,579	13,901	5,274	230,884	79,781
North Carolina	175	128	18	548	88	22	478	242	2,733	2,789
North Dakota	69	36	3	40	17	----------	15	16	837	561
Ohio	4,574	638	83	718	809	81	2,395	812	31,830	9,800
Oklahoma	123	80	10	247	76	4	44	149	1,525	2,543
Oregon	726	283	34	627	224	13	182	933	4,873	2,894
Pennsylvania	1,527	477	490	630	2,376	83	2,394	974	28,996	11,354
Rhode Island	184	128	7,407	91	366	39	243	51	2,545	1,510
South Carolina	60	212	4	190	71	3	324	91	1,259	650
South Dakota	27	33	2	41	15	1	17	26	564	370
Tennessee	150	87	17	187	46	6	99	98	1,584	2,317
Texas	1,206	565	63	958	444	77	430	789	10,812	11,078
Utah	312	58	1	440	38	4	274	1,025	2,305	1,452
Vermont	24	17	1	31	55	4	22	67	643	617
Virginia	456	554	24	604	508	34	634	484	7,008	4,621
Washington	1,551	1,835	56	2,187	385	10	339	1,072	11,716	4,170
West Virginia	91	141	----------	62	46	35	163	23	1,552	799
Wisconsin	404	178	25	310	139	10	405	651	8,830	4,832
Wyoming	49	6	1	54	13	----------	52	11	390	329
U.S. Territory and Possessions:										
Guam	28	3,205	----------	85	2	1	1	1	1,259	5,525
Puerto Rico	24	25	11	19	16	8,986	13	184	7,327	11,434
Virgin Islands	4	28	3	2	2	143	----------	134	1,391	5,968

[1] Includes Taiwan.

Source: U.S. Immigration and Naturalization Service.

Senator MONDALE. At this time I order printed in the record such additional material as may enlighten this committee, including the responses from Government officials to the many questions that have been raised by this investigation.

(The information referred to follows:)

OFFICE OF THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

MAR 26 1970

Honorable Walter F. Mondale
Chairman, Subcommittee on Migratory Labor
Committee on Labor and Public Welfare
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

There are returned herewith, as requested in your letter of January 28, 1970, responses to fifty-one of the fifty-two questions which accompanied your letter.

The eighth item on your questionnaire will be the subject of a later communication.

Sincerely,

Richard G. Kleindienst

Richard G. Kleindienst
Deputy Attorney General

QUESTIONS POSED BY THE SENATE SUBCOMMITTEE ON MIGRATORY LABOR TO THE IMMIGRATION AND NATURALIZATION SERVICE OF THE JUSTICE DEPARTMENT CONCERNING THE BORDER COMMUTER LABOR PROBLEM

1. Would you please explain all of the different ways by which persons enter the United States from Mexico? What, exactly, is the statutory, historic, or other basis for:
   a. U.S. citizens commuting daily from Mexico (using birth or baptismal certificates or other documents)?
   b. temporary visitors (3 day passes)?
   c. alien commuters (daily green card commuters)?
   d. permanent resident alien commuters (seasonal green card commuters)?
   e. illegal entrants?
   f. foreign contract workers?
   g. any other?

2. How does a person qualify for each of the permits or papers that may be used to cross the border? How does a person qualify for a green card, and what is required to keep a green card once received; for a temporary visitor's card, etc.?

3. How many persons are in each category of border commuters?

4. What differences are there in the law, and in its administration, between the seasonal commuter and the daily commuter?

5. What differences are there in the law, and in its administration, between the alien commuter and the actual resident alien?

6. What are the rights and privileges, and obligations and responsibilities, of all classes of border commuters? Can they vote, are they subject to the draft, must they pay taxes, can they collect social security, and for what Federal programs, such as commodity food, etc., are they eligible?

7. It has been established that the daily commuter alien has a different status by administrative regulation than a permanent resident alien because: (1) the commuter alien with a green card (as a visa) may not reenter if he is unemployed in the U.S. for six months; and (2) he may not enter with the purpose of working at the sight of a work dispute. If this distinction is perpetuated by administrative regulation, why then can not an administrative regulation be promulgated which would prevent the commuter alien from coming to this country to work in an area where it would adversely affect the wages and working conditions of U.S. workers?

8. The Subcommittee requests the Service to conduct at each port on the Southern Border, at least once a month, two one-day counts of the morning border crossers, one on a Monday morning, and one on a weekday morning other than Monday. The Subcommittee requests that the following data be secured in each of these counts: (Please supply the information on a port by port basis.)

a. number of green card holders commuting, by age and sex?
b. number of U.S. citizens commuting, by age and sex?
c. number of 72-hour card holders crossing into this country between 2 a.m. and 8:30 a.m., by age and sex?
d. number of apparent farmworkers (indicated by dress and crossing hour) in categories a and b (above)?
e. the kinds of documentation, such as birth certificates, baptismal certificates, citizen's cards, and other documents, offered by the U.S. citizens?

9. The Immigration Service marked green cards with metal grommets during November and December, 1967.
   a. How many were grommeted at that time?
   b. Are the green cards of new commuters grommeted on a continuing basis?
   c. How many grommeted cards are now being used?
   d. How many cards have been grommeted since January 1, 1968?
   (Please answer questions c and d on a port by port basis.)

10. The Subcommittee requests the following information by filing location or geographic location, from the I-53s filed in January, 1969, by both seasonal and daily commuters.
   a. What was the average age (or age range) and sex of filers?
   b. What were the responses and totals to questions 11, 12 and 13?
   c. How many alien registration card (I-53) filers are employed, or not?
   d. How many agricultural laborers that commute are employed, or unemployed?
   e. Is a routine check made to determine whether or not commuters are employed? If so, by whom, and explain the procedures used.
   f. How many commuters lose their status each year?
   g. If a green card holder works in the fields for five months in this country, and returns to Mexico for seven months, does he lose his right to come back into this country the next year? If not, why not?
   h. What does the Service plan to do about commuters who check box one of question 11, indicating that they have never worked in the United States, or who indicated that they work seasonally in the United States for periods of less than 6 months?
   i. What does the Service plan to do with workers who check box two of question 12, indicating that they were unemployed in January?
   j. Is it true that commuters at the Detroit, Michigan, port are checked regularly on their continued employment, or lack of it, while this is not routinely done along the Mexican border? If so, please explain.

11. The Service, because it is seeing a large number of individuals daily, has an immense collection of potentially useful information which should be made available to interested Federal agencies.
   a. Please submit the rules, regulations, and program guidelines that you have to implement such inter-departmental, or inter-agency, cooperation.
   b. To what extent is wage information, gathered from apprehended

illegal immigrants, turned over to the minimum wage law enforcement personnel in the Department of Labor?

c. To what extent is this information given to, or shared with, State authorities?

12. Many of the workers crossing the border are allegedly U.S. citizens, and many of them offer birth certificates and baptismal certificates as proof of citizenship. Many of these workers are seeking agricultural jobs, and are hired by labor contractors within a couple of hundred yards of the crossing point. Significant numbers of youngsters under 16 cross the border for farm employment, while local schools are in session. The Fair Labor Standards Act prohibits employment of children under 16 while school is in session. What is the Service doing to give information on this situation to the Labor Department?

13. Green card holders must pay U.S. income taxes. To what extent, and in what manner, is the Service cooperating with the Internal Revenue Service to help collect income taxes from Green Card Commuters?

a. Have there been conversations between the Immigration Service and the Internal Revenue Service about the desirability of requiring an annual tax clearance, like the so-called "sailing permit" required of other non-resident workers, from Green Card commuters?

b. It is our understanding that annual tax clearances are not now required of most commuters, though there may be a nominal requirement that such forms must be filed by farmworkers (and others who do not have taxes withheld by their employers). Is this true?

14. When apprehended illegals are caught while working, the Service must note the name of the employer and the worker's wage rate. To what extent is this information made available to the Social Security system so that it can make sure that contributions are made by worker and employer for this work--which, though illegal, is still covered by the Social Security law?

15. Although the Service has social security numbers on some of its forms, we understand that the Service's files are maintained on the "A" numerical filing system, not by Social Security numbers. Meanwhile, the Federal income tax, social security, and unemployment insurance systems, to name a few, are all keyed to the social security number. Has the Immigration Service thought about converting its filing system to that used by Social Security?

16. What is the Service's policy on the acceptance of birth and baptismal certificates as proof of citizenship by commuting U.S. citizens?

a. How many birth and baptismal certificates have been validated in the last six months?

b. At what rate does the Service plan to check them?

c. How many birth certificates have been found to be fraudulent in the last three months? six months? year?

d. To what extent are pregnant Mexican women coming to the U.S. to give birth to children, thus guaranteeing U.S. citizenship for them?
e. How widespread is the reported practice of midwives along the border, for a fee; fraudulently claiming to attend the birth of a child in the U.S.? Have there ever been any prosecutions of this practice?

17. When the Service apprehends an illegal with a Social Security card, what is done with the card? If Social Security employment offices are not informed, please explain why not.

18. Please submit a map of the U.S. - Mexico border, showing the number of Border Patrolmen stationed along the border, at the point of the lowest staffing level (presumably the middle of the night). Please prepare the map to show the length of territory covered by each group of Patrolmen. Show only those men who are actually working the border, on foot, in cars, and in the air, but do not include men stationed at the crossing points. Please supply a similar map, by port, showing the maximum number of employees stationed at the border, either temporarily or permanently, during operation Intercept.

19. The Subcommittee understands that a group of illegals, detained in California to testify in trials of smugglers, are allowed to do farm work.
a. What steps has the Service taken to assure that these detained illegals, a totally controllable work force, do not cause an adverse effect on the resident labor force?
b. Is it true that some of these detainees are allowed to stay in this status for as much as a year?
c. Are these workers allowed to work at places found to be in a labor dispute status by the Secretary of Labor? If so, please explain.
d. How does this compare with the government policy on prison labor?

20. The Subcommittee heard testimony that every morning, at about 3 a.m., buses leave Calexico, California, loaded with green card holders, headed for grape ranches in the Coachella Valley, where strikes have been certified by the Secretary of Labor. What is being done to enforce the Service's regulations that relate to this matter?

21. It is well known throughout the border area that so-called "wet maids" are numerous and badly underpaid, sometimes getting as little as $8 to $10 a week plus room and board for long, long hours of work. What is the Service doing to change this situation?

22. What are the Service's regulations regarding registration for the draft? When the Service apprehends a commuter who does <u>not</u> have a draft card, does the Service turn his name over to the draft system on the grounds that he should be registered for the draft, and isn't? Please explain.

23. To what extent do green card commuters and illegal workers contribute

to the flow of narcotics across the border?
a. Did Operation Intercept reveal any evidence to support the theory that farmworkers were the chief smugglers of drugs into the U.S.?
b. How many persons identified as farmworkers were picked up during Operation Intercept?

24. The Subcommittee has been told that border area officers of the U.S. Employment Service do not require job applicants to show proof that they are in the U.S. legally, nor do Social Security offices require such proof before issuing Social Security cards. Hence an illegal entrant could show up for a job, particularly a farm job, with a nice new social security card, and a reference from the U.S. Employment Service. What has the Service done to try to change this pattern? If you are not aware of this, please explain.

25. Please submit the following information, for each of the past five years, by geographical area:
a. the number of smugglers of illegal entrants apprehended?
b. the number of convictions secured?
c. the kinds of sentences handed out?
d. What additional legislation or enforcement resources are needed to further control these practices?

26. During Subcommittee hearings on May 21 and 22, 1969, a number of questions were raised regarding the lack of a computer system for recording the movements of aliens across land borders. During the hearings, Senators and their counsel spoke of various systems used in roughly comparable situations, ranging from the ticket punching techniques of commuter railroads, to the airline seat reservation system.
a. Does the Service now have the authority, under law, to implement such a computer technique or system?
b. How much would such a system cost?
c. Has the Service requested the needed funds from the Bureau of the Budget?
d. Wouldn't such a system (if it dealt with both border crossing card holders, and green card holders, and used an electronically activated card) substantially improve the Service's control over the movements of non-resident, non-citizens?
e. Wouldn't such cards, particularly if tied to a thumb print system, be harder to forge than the current plethora of documents used by border crossers?

27. What is the Service's policy on the acceptance of baptismal certificates as proof of citizenship by commuting citizens?
a. Are such certificates still acceptable at the Hidalgo bridge?
b. Is it true that over the past five years, the certificates were accepted at some parts, but not others?

28. What is the process by which illegals apprehended by the Service are escorted back to Mexico?
    a. How many are simply transported across the border?
    b. How many are taken into the interior of Mexico?
    c. Were the charter flights from Port Isabel to Central Mexico abandoned at any time in recent years? If so, please explain.

29. With regard to Section 212(a)(14) labor certification provisions of the Immigration and Nationality Act:
    a. Do the provisions requiring certification of employment apply to all aliens who seek legal entry as permanent residents and whose entry is based on employment providing their financial responsibility? Please explain.
    b. Under what circumstances must a commuter show that he has permanent employment? What definition does the Service use for permanent employment?
    c. Which aliens are exempt from the provision of Section 212(a)(14)?
    d. Has the State Department, or the Service, compiled any statistics on the number of aliens admitted for permanent residence during each of the last three years who were exempt from the provisions of 212(a)(14)? If so, please provide.
    e. How is the exemption established? Please outline the procedure.
    f. What instructions have been issued to those officers granting the exemption, particularly as to sufficiency of proof in establishing preference by citizenship of a relative who claims birth in the United States?

30. With regard to statistics compiled, if any, on fraudulent applications for preference status:
    a. How many cases of such nature were investigated for each of the last three years?
    b. What types of fraud have been uncovered?
    c. How is the State Department and the Service meeting the problem of fraud?

31. With regard to the investigation of fraud:
    a. Who is in charge of investigation?
    b. How are the offices responsible for the investigations staffed?
    c. How many cases of fraud have been uncovered before a visa is issued during the past five years, and in 1960 and 1955?
    d. How many cases of fraud have been uncovered after the visa has been issued during the past five years, and in 1960 and 1955?
    e. What efforts are made to deter the continuation of the frauds?

32. With regard to preference categories:
    a. What are the advantages of the preference categories?
    b. Of those admitted under the preference categories, how many have entered with offers of employment?
    c. What is considered a sufficient offer of employment under the preference category?

33. With regard to offers of employment:
    a. What evidence, conditions, or requirements are required to establish the sufficiency of an offer of employment?
    b. Who makes the final determination on sufficiency requirements?
    c. What is considered the minimum offer, in order to qualify, for example, for a family of two, three, four, etc., up to ten? Are instructions as to sufficiency different for each immigration district, or each consular area? If so, why, and how are they different?
    d. If an offer of employment is suspected of being false, what action is taken? Is any information of this nature ever publicized, and if so, when was the last time? What were the circumstances?
    e. Have extensive frauds been uncovered in offers of employment? Who generally engages in such frauds? Give examples.
    f. If the fraud is uncovered after the visa is issued, what action is taken? What procedures apply? How many such frauds were uncovered during the past five years?
    g. How does a Consular office go about trying to prove that a work offer is fraudulent? What procedures are established to cope with this problem?
    h. Once a visa has been granted, does either the State Department or the Service conduct any investigations as a matter of course to determine how many offers of employment, both under certification, or under preference, are actually bona fide? Who is responsible for insuring compliance?
    i. If so, who conducts such investigations? How many service personnel are used, for example, in the Los Angeles Immigration district, and how many in the San Antonio district? What instructions do they operate under?

34. Is it the policy of the Service to ever determine whether there is either an oversupply or an undersupply of farm labor in the U.S.? If so, in the opinion of the Service, is there an oversupply, or is there an undersupply, of farm labor in the United States?

35. Have many frauds been uncovered in regard to establishing preference by marriage to a citizen, or legal resident spouse? By the birth of a U.S. citizen child? If so, how many?
    a. How are those cases handled? How many personnel are engaged in investigating this type of case?
    b. How extensive are these cases publicized? Is it fair to conclude that some problems along the border are traceable to permissive policy with regard to enforcement of regulations?

36. Does a commuter have the same standing as a bona fide legal resident to establish preference for a visa applicant?

37. Is there any way in which the Consular Office or the Service can, under present policies,prevent an already non-bona fide legal resident from establishing more non-bona fide legal residents? Are there any statistics kept of such cases?

38. Would the offer of employment of a grower, or business, which has been certified as being on strike under the 1967 regulation of the Secretary of Labor, to a preference applicant for a visa, be considered sufficient if the minimum wage is offered?

39. If his offer is not considered sufficient, and the applicant obtains an offer from someone not certified on strike, can such an applicant after admission, then go to the struck farm and work, alleging that he was not a commuter but a bona fide legal resident when he applied for, and obtained, work on the struck farm?
    a. If such employment is not permissible, what has been done by the Service to insure that no violations have occurred?
    b. What instructions have been given to insure that such cases do not occur? Has any publicity been given to this kind of situation? If so, where?
    c. How many personnel in the Starr County, Texas, area, were assigned to such investigations, if any?
    d. In other words, what has the Immigration Service done, as positive action, to (1) prevent violations in this respect; (2) implement actual enforcement?
    e. At a district level, who has been given the responsibility to take positive enforcement action? What specific action has been taken? How many persons are actually engaged in such action?
    f. If checks were made at struck farms, who made the checks for violations? How many checks were made in Starr County, during 1968? How many checks were made in the Coachella Valley of California in 1968 and 1969?
    g. When the checks were made, what was the procedure used? Was each worker checked individually, and were employment records checked? Were the records of truckers under contract, or paying piece rates, also checked?

40. With regard to form I-186, Visitors' Passes, or the equivalent of said form:
    a. How many have been issued to Mexican Nationals in each of the last ten years?
    b. How many of such passes are outstanding at present?
    c. How many of such passes were revoked in each of the past five years? For what reasons?
    d. Why isn't the form I-186 issued for a specific term requiring periodic renewal?
    e. Why aren't all visitors' dates of entry and departure stamped on a supplementary document, as is now required for visits outside the twenty-five mile border zone?
    f. Is the form I-186 often used as an entry document by persons who subsequently return it to Mexico and proceed beyond the border as illegal entrants?

g. Isn't it true that it is presently impossible to match apprehended illegal entrants with persons who crossed the border using a form I-186, yet returned the card to Mexico prior to apprehension? If the answer is negative, please provide an explanation.

41. If dates of entry and departure were required to be stamped on a document carried by all visitors, would the abuse of the visitors permit be minimized?
   a. Would a separate form stamped with the date of entry to be returned to the inspector on exit, provide a better means of determining whether or not a bearer of the visitors permit had violated its terms previously at the time of an attempted reentry?
   b. Could all information relating to violations be computerized so that on reentry a permit could be checked within a matter of minutes in the same way that banks computerize data pertaining to checking accounts?
   c. Would this create an inordinate delay at the border? If the answer is affirmative, please explain giving particulars.

42. Is it true that at this time holders of form I-186 are not fingerprinted?
   a. Would not fingerprinting bearers of the I-186 facilitate matching the fingerprints of apprehended illegal entrants with I-186 card holders for the purpose of revocation of the card?
   b. Isn't it true that this might be undertaken by the Federal Bureau of Investigation as an incident to their national fingerprinting clearinghouse activities? If the answer is negative, please provide an explanation.
   c. Please indicate in detail why a fingerprint is not obtained from visitors.
   d. Does the Immigration Service presently intend to institute fingerprinting for the purpose of curtailing abuses of the I-186? If the answer is affirmative, when will such change be effective? If the answer is negative, state the reasons for not using the fingerprint identification.

43. With regard to illegal entrants:
   a. How many were apprehended by the Border Patrol in 1960, 1965, 1966, 1967, 1968, and 1969?
   b. How many illegal entrants were formally deported in each of the above listed years?
   c. How many illegal entrants were subjected to criminal prosecution in each of the above listed years?

44. State the policy of the Service and the Justice Department in detail with reference to waiver of prosecution, and waiver of deportation.

45. State in detail the circumstances which give rise to a formal deportation proceeding, or a criminal prosecution.

46. Indicate the percentage of formal deportations and prosecutions to apprehensions during the period of Operation Wetback, 1953, 1954 and 1955.

Is it true that Operation Wetback provided an effective deterrent to subsequent illegal entry for a period of years?

47. Indicate the number of apprehensions of illegal entrants, and the number of prosecutions and formal deportation proceedings arising out of those apprehensions in the San Antonio District, and in the Livermore district, in 1968? Indicate the reasons why the Justice Department did not resort to further use of formal procedures.

48. Indicate specific plans if any to increase the number of criminal prosecutions and formal deportation proceedings utilising the new federal magistrate. Reflect a schedule for implementation of such plans.

49. Does the Service have, in the opinion of counsel, the power to levy administrative fines against illegal entrants or persons who harbor or assist illegal entrants?
    a. If the answer is negative, indicate from a legal standpoint the grounds underlying that opinion. If the answer is affirmative, indicate the circumstances under which the agency has the power to levy informal administrative fines.
    b. Would such power be useful in deterring illegal entrants if monies in their possession were subject to partial confiscation to meet such fines?

50. Would it not be possible to permit illegal entrants to sign a stipulation acknowledging violation of immigration laws as a condition to voluntary departure, to be used to expedite subsequent formal deportation or criminal prosecution in the event of apprehension subsequent to reentry?
    a. If the answer to this question is negative, please specifically enumerate authority substantiating the negative response.
    b. If the answer is affirmative, indicate why such practice or a similar practice is not now the policy of the Service.

51. Indicate the number of special hearing officers available in the Southwest Region for the purpose of processing formal deportation proceedings.
    a. Indicate the number of deportation proceedings or other administrative hearings conducted by such special inquiry officers in 1960, 1965, 1966, 1967, 1968, and 1969.
    b. Indicate the number of deportation proceedings for illegal entry conducted by special inquiry officers in those same years.

    c. Indicate the increase in the staff of special inquiry officers during the previous three years.

52. Indicate the actual increase in funds allocated directly to the Border Patrol in each of 1960, 1965, 1966, 1967, 1968, and 1969.
    a. Indicate the percentage of the budget of the Immigration Service allocated to the Border Patrol in each of the above years.
    b. Indicate the average size of the Border Patrol on duty in the Southwest Region for each of the above years.
    c. Indicate efforts on the part of the Justice Department or the Service to increase 1) the number of special hearing officers, and 2) the size of the Border Patrol in the Southwest Region in the past several years.
    d. Indicate circumstances which have impeded the expansion of the Border Patrol and the special inquiry officers staff, if any.

Subcommittee Inquiry

1. Would you please explain all of the different ways by which persons enter the United States from Mexico? What, exactly, is the statutory, historic, or other basis for:

   a. U.S. citizens commuting daily from Mexico (using birth or baptismal certificates or other documents)?
   b. temporary visitors (3 day passes)?
   c. alien commuters (daily green card commuters)?
   d. permanent resident alien commuters (seasonal green card commuters)?
   e. illegal entrants?
   f. foreign contract workers?
   g. any other?

Response

a. Immigration authorities are empowered to exclude aliens only. The exclusion provisions of immigration laws are concerned exclusively with aliens. However, every person seeking to enter the United States is presumptively deemed an alien, until he produces evidence to remove himself from that category. U.S. v. Sing Tuck, 194 U.S. 161, 169, 24 S.Ct. 621. 48 L. Ed. 917 (1904). A person who satisfactorily establishes that he is a citizen of the United States cannot be barred from entering the United States. Worthy v. U.S., 328 F. 2d 386 (C.A.5, 1964). This right of entry may be claimed by any citizen of the United States, including those who do not reside in this country.

The following documents, in possession of the rightful holder, constitute prima facie evidence of United States citizenship:

United States Passport
birth certificate
baptismal certificate
certificate of naturalization
certificate of citizenship
Identification Card (I-179)
Identification Card (I-197)
State Department Report of Birth abroad (FS-240)
State Department Certificate of Identity (FS-225)
State Department Card of Identity (FS-255-A)
U.S. Coast Guard Merchant Marines Document (CG-2838)
Air Crewman Identification Card

Under 22 CFR 53.2(b), however, a United States citizen who is travelling between Mexico and the United States ordinarily is not required to bear a valid U.S. passport to enter or depart from the United States. Consequently, applicants claiming United States citizenship at the Mexican border can substantiate their claim by presenting one of the foregoing documents or by any other evidence which satisfies the immigration officer.

b. Section 101(a)(15)(B) of the Immigration and Nationality Act (8 USC 1101(a)(15)(B)) classifies as a nonimmigrant an alien who is visiting the United States temporarily for business or pleasure. Section 212(a)(26) of that Act (8 USC 1182(a)(26)) makes a nonimmigrant excludable if he is not in possession of a valid passport and a valid nonimmigrant visa or border crossing identification card. Section 101 (a)(6) of the Act (8 USC 1101(a)(6)) defines a border crossing identification card as "a document of identity bearing that designation issued to an alien...who is a resident in foreign contiguous territory, by a consular officer, or an immigration officer for the purpose of crossing over the border

between the United States and foreign contiguous territory in accordance with such conditions for its issuance and use as may be prescribed by regulations."

Section 212(d)(4)(B) of the Act (8 USC 1182(d)(4)(B)) authorizes the Secretary of State and the Attorney General to waive the passport and visa requirement of Section 212 (a)(26) with respect to nationals of foreign contiguous territory or adjacent islands, on the basis of reciprocity.

Under Section 214 of the Act (8 USC 1184), the admission of a nonimmigrant is for such time and under such conditions as the Attorney General may by regulations prescribe.

Under regulations of the Immigration and Naturalization Service (8 CFR 212.1(c)) and the Department of State (22 CFR 41.6(c)) the visa and passport requirement is waived for a Mexican national applying for admission from contiguous territory as a temporary visitor who is in possession of a Nonresident Mexican Border Crossing Identification Card (Form I-186).

Upon approval of an application for issuance of Form I-186, that card may be issued by a consular officer at a United States consular post in the interior of Mexico or by a United States immigration officer at a port of entry at the Mexican border. Pursuant to 8 CFR 212.6(a), the rightful holder of a Form I-186 applying for admission as a temporary

visitor at the Mexican border may be admitted without further documentation if he will remain in the United States no longer than 72 hours and will not proceed beyond 25 miles from the border. If he intends to stay within the 25-mile distance from the border for more than 72 hours but not more than 15 days, or he intends to visit beyond the 25-mile distance but within the State of California, Arizona, New Mexico or Texas for not more than 15 days, he is issued a Form SW-434 upon admission. If he wants to remain more than 15 days or to proceed beyond the four border states he is issued Form I-94 (Arrival-Departure Record) upon admission.

c. The daily commuter is an alien who resides in a contiguous foreign country and who crosses the border daily or several times a week to stable employment in the United States. This is a special status under the immigration laws, with deep historical roots.

Until 1921 there were no numerical limitations on immigration, and aliens were free to come to employment in this country, if they did not infringe the contract labor restrictions or the other exclusions of the immigration laws. Numerical limitations on immigration were introduced in 1921, but those restrictions did not apply to aliens who had been in Canada or Mexico for 1 year, section 2(a)(7), act of May 19, 1921, 42 Stat. 5, a period raised to 5 years by section 2 of the act of May 11, 1922, 42 Stat. 540.

The temporary legislation of 1921 was succeeded by the act of May 26, 1924, 43 Stat. 153, which established a permanent system of quota allocation and control. Natives of Western Hemisphere countries were excepted from quota limitations, although immigrants from those countries were required to obtain and present immigration visas or equivalent documents. But the most significant innovation relating to the border-crossing workers was the system of classifying entrant aliens as immigrants and nonimmigrants. Immigrants were defined as all entrants except certain designated nonimmigrant classes coming temporarily. Among the designated nonimmigrant classes were temporary visitors "for business or pleasure". Section 3, act of May 26, 1924, 43 Stat. 153.

In administering the 1924 act, commuters first were considered temporary visitors "for business" and were free to continue to come to their employment in this country. However, on April 1, 1927, the immigration authorities promulgated General Order 86 which reversed their former position and declared that aliens coming to work were not temporary visitors "for business" but were classified as immigrants. This interpretation was upheld by the Supreme Court in Karnuth v. Albro, 279 U.S. 231, 242-244, 1929, which found that the statutory reference to business was limited to "intercourse of a commercial character."

In studying the problem at that time the immigration authorities concluded that Congress had not intended to interfere with the established pattern of regular border crossings by workers from adjacent countries who commuted to jobs in the United States. Such aliens, almost without exception, could obtain immigrant visas without difficulty. But they would be faced with an impossible task if they were required to obtain a new visa for each daily reentry. Therefore, the immigration authorities devised a border-crossing identification card which could be obtained by aliens who frequently crossed the international boundary. Such cards were issued to immigrants and nonimmigrants. Rule 3, subdivision Q, paragraph 1, Immigration Rules of March 1, 1927 and January 1, 1930. Their issuance and use later received express sanction in section 30 of the Alien Registration Act of 1940, 54 Stat. 673.

Thus, a commuter was able to procure an immigrant visa and lawful admission as an immigrant. Thereafter he would obtain a border-crossing identification card, and with that card was admitted each day as returning to his immigrant status in the United States. This arrangement was in harmony with the good neighbor policy with Canada and Mexico endorsed in the provisions of the 1924 act which conferred nonquota status on persons born in those countries. Moreover, it

facilitated travel across the Canadian and Mexican borders and avoided serious dislocations in the border areas.

The commuter program was well known to Congress and was discussed and endorsed, at least implicitly, in the comprehensive study by the Senate Judiciary Committee which preceded the 1952 act. This was in the Senate Report 1515 of the 81st Congress, second session, at page 535.

Nothing in the Immigration and Nationality Act or its legislative antecedents indicated that Congress was dissatisfied with this program or desired to change it in any way. Like the 1924 act, the 1952 legislation did not define "immigrant", except to specify that every alien was an immigrant who was not within the nonimmigrant classes. Section 101(a)(15), Immigration and Nationality Act 8 USC 1101(a)(15).

In determining those who are at a given time to be deemed immigrants care must be taken to avoid the requirement of "residence", "domicile", or place of "abode," since by specific definition an immigrant is any alien not a nonimmigrant, without regard to place of residence, domicile, or abode. The right to reenter the United States to continue a prior status after a temporary absence is accorded to those who have been "lawfully admitted for permanent residence". This is found in section 101(a)(27)(B), Immigration and Nationality Act, 8 USC 1101(a)(27)(B), and that term is

defined as "the status of having been lawfully accorded the privilege of residing permanently in the United States." Section 101(a)(20), Immigration and Nationality Act, 8 USC 1101(a)(20). It is significant that this statute speaks of one who has been accorded the privilege of residence and does not require that the person having that status must actually reside here.

Thus, the congressional definition has been deemed to coincide with the long established administrative interpretation as reflected in the commuter program.

After enactment of the 1952 Act the Immigration and Naturalization Service concluded that no change in the commuter program was intended and that program continued thereafter without interruption. Its continuing validity was endorsed by the Board of Immigration Appeals in the Matter of H. O., 5 I. & N. Dec. 716, 1954.

Subsequent to the enactment of the Immigration and Nationality Act there was litigation challenging the validity of the alien commuter program. Particularly, it was contended that section 212(a)(14), Immigration and Nationality Act, 8 USC 1182(a)(14), could bar the admission of commuters, notwithstanding that returning lawful resident aliens are unquestionably exempted from the operation of that section. In Amalgamated Meat Cutters v. Rogers, 186 F.Supp. 114 (D.C., 1960)

the court held that commuters were not lawful permanent residents for the purpose of section 212(a)(14) when the Secretary of Labor had issued an adverse certification against the employer under the section as it read (66 Stat. 183) prior to its amendment in 1965. This ruling was not appealed, since it had virtually become moot by the time a final judgment was entered. In a later suit challenging the legality of the alien commuter program, Texas State AFL-CIO v. Kennedy, 330 F.2d 217 (C.A.D.C. 1964), cert. den. 379 U.S. 826, the court dismissed the suit without reaching the merits, holding that the plaintiffs did not have legal standing to sue.

On October 3, 1965 Congress made several amendments to the Immigration and Nationality Act (P.L. 89-236, 79 Stat. 916). Sections 211(b), 8 USC 1181(b) and 212(a)(14), 8 USC 1182 (a)(14), were among the sections amended. Subsequent administrative decisions by the Board of Immigration Appeals have concluded that the commuter system continues, unaffected by the 1965 legislation. Matter of Burciaga-Salcedo, 11 I. & N. Dec. 665 (1966); Matter of Bonanni, 11 I. & N. Dec. 791 (1966); Matter of Gerhard, 12 I. & N. Dec. 556 (1967); Matter of Weindl, 12 I. & N. Dec. 621 (1968). Since 1965 there have been new court challenges to the validity of the commuter program. In Gooch v. Clark, Civil No. 49,500 N.D. Cal., the court, on June 19, 1969 in an unreported decision held that Congress had not abolished the commuter system in

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1965 and rejected a challenge to the legality of the program. An appeal is pending before the United States Court of Appeals, Ninth Circuit. A similar suit challenging the legality of the commuter program is Bustos v. Mitchell, Civil No. 3386-69, instituted in December 1969 and pending in the United States District Court, District of Columbia.

d. The seasonal worker or seasonal commuter is a relatively new concept under the immigration laws. It developed after the end of the bracero program in 1964, and the status of such aliens has been analogized to that of the daily commuter, discussed in paragraph c., supra. As used here and throughout the responses to the Subcommittee's questions, a seasonal worker or seasonal commuter is an alien lawfully admitted to the United States for permanent residence, who resides in a contiguous foreign country, who comes to the United States solely to perform seasonal work for extended periods, but whose annual stay in the United States is for less than six months. The seasonal worker's situation should be contrasted with that of the resident alien, who is lawfully admitted to the United States and lives in the United States for the preponderance of each year, even though he may spend substantial time in the contiguous country of his origin.

While there has been much discussion and characterization of green card holders as seasonal commuters, experience has

demonstrated that few of such workers can be classified as commuters. The difficulty in attempting to designate such aliens as commuters is that the green card worker who comes for seasonal employment usually is physically present in the United States a preponderance of the year in connection with his employment.

e. In addition to illegal entries through surreptitious entry at other than ports of entry, and concealment in vehicles at ports of entry, other methods to affect illegal entry are attempted.

Many persons are intercepted each year attempting entry with counterfeit or altered Alien Registration Receipt Cards (Form I-151), or Mexican Nonresident Alien Border Crossing Cards (Form I-186), or U.S. Citizen identification cards (Form I-179) or fraudulent documentation as evidence of employment with Mexican national, state, or municipal governments. Many alien imposters are also intercepted with unaltered stolen or purchased Forms I-151, I-186 or I-179, posing as the rightful holders of those forms. Others attempt illegal entry by falsely claiming United States citizenship, supporting their allegations with various documentation such as stolen or altered or fraudulently obtained birth or baptismal certificates or other documentation, or with false affidavits or testimony. A large number of I-186 holders succeed in effecting entry as temporary

visitors, with preconceived intention of working in the United States.

f. The Contract Labor Act of 1885, 23 Stat. 332, was designed to protect workers in this country from competition of imported foreign laborers. Subsequent legislation prior to 1952 continued the prohibition against bringing contract laborers to the United States. By then the contract labor legislation had become obsolete because workers were protected through the strength of the labor union organizations and the advance of social legislation. The contract labor laws were repealed by the Immigration and Nationality Act of 1952, 66 Stat. 279.

Since December 24, 1952, the effective date of the latter Act, the temporary admission of foreign workers has been governed by Sections 101(a)(15)(H) and 214(c) of the Act, 8 USC 1101(a)(15)(H) and 1184(c). The Immigration and Naturalization Service must approve a visa petition by the prospective employer before the temporary worker may be issued an appropriate visa by the consular officer and be admitted to the United States. Two classes of temporary workers are embraced by this section. The first, known as H-1, relates to aliens of distinguished merit and ability coming here temporarily to perform temporary services of an exceptional nature requiring such merit and ability. The

second, known as H-2, relates to aliens coming temporarily to the United States to perform other temporary services or labor, if unemployed persons capable of performing such services or labor cannot be found in this country. Foreign contract workers for agricultural employment are usually brought pursuant to the H-2 category.

Under 8 CFR 214.2(h)(2)(ii) the petitioning employer seeking to import H-2 workers is required to submit as a supporting document with the petition, either a certification from the Secretary of Labor to the effect that qualified persons are not available in the United States to perform the services in question and that the employment of the H-2 workers would not adversely affect the wages and working conditions of workers in the United States similarly employed, or a notice from the Secretary of Labor to the effect that such a certification cannot be issued.

Between 1949 and 1964 large numbers of contract workers, who were known as braceros, were brought from Mexico under special statutory authorization and pursuant to agreement with Mexico. However, Congress ultimately refused to extend this special program, which expired December 31, 1964.

As noted above, the law still permits the importation of agricultural workers from Mexico as H-2 temporary workers, upon petition of the prospective employer, supported by a

labor certification. However, the number of labor certifications issued for Mexican agricultural workers has steadily decreased since 1964. As a result, in Fiscal Year 1969 only 229 Mexican agricultural workers were admitted as H-2 nonimmigrants.

g. Members of the following additional classes of persons enter the United States from Mexico:

(1) U.S. citizens who reside in the United States and are returning from temporary visits to Mexico. The comments made in the response to question 1a are pertinent to persons in this class;

(2) immigrants coming to reside in the United States, entering with visas issued by U.S. consular officers pursuant to section 211 of the Act, 8 USC 1201;

(3) nonimmigrants entering with nonimmigrant visas issued by a U.S. consular officer under the various nonimmigrant classifications defined in section 101(a)(15) of the Act, 8 USC 1101(a)(15). These may include diplomats, visitors, transits, crewmen, treaty traders, students, representatives to international organizations, temporary workers and trainees, information media representatives and exchange visitors;

(4) Mexican local, state and federal government officials entering under a waiver of nonimmigrant visa and

passport requirements, in accordance with the authority contained in section 212(d)(4)(B) of the Act, 8 USC 1182(d)(4)(B), and joint regulations of the Service and the Department of State, 8 CFR 212.1(c) and 22 CFR 41.6(c);

(5) lawful permanent resident aliens whose actual residence is in the United States and are returning from a temporary absence. Most of these individuals present Form I-151, which is accepted as a travel document in lieu of a visa pursuant to 8 CFR 211.1(b)(1) if the rightful bearer has been absent not more than one year. In some instances, he may be admitted if otherwise admissible, upon presentation of an unexpired permit to reenter the United States issued by the Service pursuant to the authority contained in section 223 of the Act, 8 USC 1203, and implementing regulations in 8 CFR 223. When not in possession of either Form I-151 or a permit to reenter, such alien may present a special immigrant visa issued by a U.S. consular officer, classifying the alien as a returning resident within the contemplation of section 101(a)(27)(B) of the Act, 8 USC 1101(a)(27)(B); alternatively a returning resident alien may, as a matter of discretion, be readmitted pursuant to section 211(b) of the Act, 8 USC 1181(b), and 8 CFR 211.1(b)(3) with

a waiver of the documentary requirement specified in section 212(a)(20), 8 USC 1182(a)(20), if the district director of the Service having jurisdiction over the port of entry is satisfied there is good reason for the alien's failure to present the required document.

Subcommittee Inquiry

2. How does a person qualify for each of the permits or papers that may be used to cross the border? How does a person qualify for a green card, and what is required to keep a green card once received; for a temporary visitor's card, etc.?

Response

An alien qualifies for an immigrant visa required by section 211 of the Immigration and Nationality Act, 8 U.S.C. 1181, pursuant to 22 CFR 42, which is administered by the Bureau of Security and Consular Affairs, Department of State, and United States consular officers stationed in foreign countries. An application for such an immigrant visa is made to the appropriate United States Consulate in a foreign country, and, if granted, the immigrant visa is issued by the United States Consul.

The responsibility for adjudication of visa petitions to classify an alien as an "immediate relative of a United States citizen" (spouse or child of a U. S. citizen or parent of an adult U. S. citizen), or as a preference immigrant is vested in the Attorney General pursuant to Section 204 of that Act, 8 U.S.C. 1154 . A consular officer may not issue an "immediate relative" or preference immigrant visa until he has been notified by the Immigration and Naturalization Service of the approval of a petition according the immigrant such classification.

An alien who is admitted as an immigrant or who adjusts his status within the United States to that of a lawful permanent resident, is thereafter furnished a laminated Form I-151, Alien Registration Receipt Card, frequently referred to as a "green card". The green card is issued to every alien who has been granted lawful admission for permanent residence. The rightful holder of Form I-151 is entitled to retain it until he either abandons his immigrant status, or is deported, or is naturalized as a United States citizen.

A citizen of Canada, a British subject residing in Canada, and a citizen of Mexico who is seeking entry as a temporary visitor for business or pleasure and is not inadmissible pursuant to 8 U.S.C. 1182 may be issued a border crossing card.

A citizen of Canada and British subject residing in Canada make application for a border crossing identification card to an Immigration and Naturalization Service officer at a port of entry on the Canadian border. A citizen of Mexico makes application either to a U. S. consular office in the interior of Mexico, or to a Service office at a port of entry on the Mexican border.

Upon approval of the application, the border crossing identification card is issued. The card facilitates inspection and entry of a bona fide visitor for business or pleasure, and is valid until revoked or voided. It may be declared void without notice for violation of immigration laws or indication of inadmissibility.

An alien seeking admission as a nonimmigrant may apply to a consular officer for a nonimmigrant visa. If the consular officer issues the visa pursuant to section 221(a) of the Act, 8 U.S.C. 1201(a), the visa is stamped into the alien's passport. The visa is valid for a specific period and for a specific number of entries. It may be revoked by the consular officer or the Secretary of State, in accordance with 8 U.S.C. 1201(i).

An application for a reentry permit is submitted prior to departure to the district director of the Service having jurisdiction over the alien's residence in the United States. Upon a determination that the applicant is in fact a lawful permanent resident of this country, that the application is made in good faith, that the alien intends to preserve his lawful permanent residence status after a temporary absence, and that the proposed departure is not contrary to the interests of the United States, the application is approved and the reentry permit is issued by the Service. The permit may be initially valid for no more than one year, and may be extended for no more than one additional year under the terms of section 223 of the Act, 8 U.S.C. 1203.

A returning resident alien arriving at a port of entry without documents may apply for admission under a waiver of the documentary requirement. If the district director determines that the applicant is indeed a returning lawful permanent resident, and that there is good reason for failure to have the required document, the district director may grant the waiver.

Subcommittee Inquiry

3. How many persons are in each category of border commuters?

Response

The Service has not maintained statistics on the number of aliens who commute to work in the United States on a regular basis, except in the Southwest Region. In the Southwest Region, as of January 31, 1970, 50,202 aliens were identified as daily commuters and 4,662 as seasonal workers. However, the latter figure includes aliens engaging in seasonal employment for periods in excess of 6 months, whose status is that of resident aliens, as stated in the response to question 1d.

Subcommittee Inquiry

4. What differences are there in the law, and in its administration, between the seasonal commuter and the daily commuter?

Response

There are no differences in the administration of the immigration law, or the regulations made thereunder, between the seasonal commuter and the daily commuter, as defined in 1c and 1d.

A commuter whose residence is in contiguous territory is deemed to have abandoned his status as an alien lawfully admitted for permanent residence if he has not been employed for six months, unless his unemployment was due to circumstances beyond his control, such as illness. If a commuter applies for admission to the United States, and it appears that he has abandoned his status pursuant to the foregoing, he is referred to a Special Inquiry Officer for an exclusion hearing.

Subcommittee Inquiry

5. What differences are there in the law, and in its administration, between the alien commuter and the actual resident alien?

Response

As previously noted, there is no specific reference in the immigration law to an alien commuter. The response to question 1c. and d. discusses the difference between a daily commuter, a seasonal commuter or seasonal worker, and a resident alien.

Subcommittee Inquiry

6. What are the rights and privileges, and obligations and responsibilities, of all classes of border commuters? Can they vote, are they subject to the draft, must they pay taxes, can they collect social security, and for what Federal programs, such as commodity food, etc., are they eligible?

Response

Alien commuters have the same rights and privileges in exclusion or deportation proceedings before a special inquiry officer and the Board of Immigration Appeals and courts as other aliens lawfully admitted for permanent residence. They are entitled to the same benefits and subject to the same penalties administered by the Service under the immigration laws as other aliens lawfully admitted for permanent residence.

They are required, as are other aliens lawfully admitted for permanent residence, to notify the Attorney General each January of their current address and of each change of and new address within ten (10) days of such change pursuant to section 265 of the Act, 8 U.S.C. 1305.

Whether alien or citizen commuters may vote is a matter for the determination of the political jurisdiction in which they live and work. The applicability of the draft laws and regulations to commuters is a matter within the jurisdiction of the Director, Selective Service System. While at one time that agency considered commuters

to be exempt from the draft laws, more recently that agency has reversed that position and now deems them subject to Selective Service requirements.

The applicability of local, state and federal taxes to commuters is a matter within the jurisdiction of those political entities. The Internal Revenue Service has indicated that commuters are subject to federal income tax on income earned in the United States.

Eligibility of commuters for social security benefits or for benefits under other federal programs are matters within the competence of the agencies administering such programs. We are unable to express any view regarding their eligibility for such benefits.

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Subcommittee Inquiry

7. It has been established that the daily commuter alien has a different status by administrative regulations than a permanent resident alien because: (1) the commuter alien with a green card (as a visa) may not reenter if he is unemployed in the United States for six months; and (2) he may not enter with the purpose of working at the sight (sic) of a work dispute. If this distinction is perpetuated by administrative regulation, why then can not an administrative regulation be promulgated which would prevent the commuter alien from coming to this country to work in an area where it would adversely affect the wages and working conditions of United States workers?

Response

In section 212(a)(14) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1182(a)(14) Congress provided specific controls for the protection of American workers. Section 212(a)(14) applies to specified classes of immigrants. This statute is explicitly inapplicable to the alien lawfully admitted for permanent residence who is returning from a temporary absence, as described in section 101(a)(27)(B). It has been and continues to be the position of the Immigration and Naturalization Service that a commuter is classifiable under the latter section when he is applying for readmission to this country. It is our view that the adoption of a regulation in the manner proposed would be tantamount to extending the provisions of section 212(a)(14) to a class of immigrants whom Congress has excluded from its terms and would be contrary to the law.

On the other hand, it is our view that the so-called strikebreaker regulation (8 CFR 211.1(b)(1) is within the ambit of authority specifically granted by Congress, in section 211(b) of the Immigration and Nationality Act, 8 U.S.C. 1181(b), to define the documents which may be presented by returning resident immigrants, including commuters. We can find no basis for expanding this statutory authority to support the imposition of a positive entry requirement which the statute precludes.

Subcommittee Inquiry

9. The Immigration Service marked green cards with metal grommets during November and December 1967.
   a. How many cards were grommeted at that time?
   b. Are the green cards of new commuters grommeted on a continuing basis?
   c. How many grommeted cards are now being used?
   d. How many cards have been grommeted since January 1, 1968?
   (Please answer questions c and d on a port by port basis.)

Response

a. During the period November 1 through December 31, 1967, the number of commuters who were identified and whose Forms I-151 were grommeted amounted to 40,176.

b. Identification of commuters and grommeting of their Forms I-151 is conducted on a continuing basis.

c. Service records indicate that at the end of January 1970, there was a total of 50,202 commuters with grommeted Forms I-151. The number of these commuters crossing at the various ports on the Mexican border is as follows:

San Ysidro, California	11,777
Tecate, California	64
Calexico, California	8,974
Andrade, California	14
San Luis, Arizona	3,616
Lukeville, Arizona	1
Sasabe, Arizona	7
Nogales, Arizona	1,386
Naco, Arizona	113
Douglas, Arizona	522
Columbus, New Mexico	31
El Paso, Texas	13,484
Fabens, Texas	321
Fort Hancock, Texas	54
Presidio, Texas	47
Del Rio, Texas	534

Eagle Pass, Texas	2,091
Laredo, Texas	3,464
Roma, Texas	108
Hidalgo, Texas	1,059
Progresso, Texas	82
Brownsville, Texas	2,453
Total	50,202 *

* An additional 970 former commuters are known to have lost that status through January 31, 1970.

d. Between January 1, 1968 and January 31, 1970 the number of Forms I-151 grommeted at the various ports of entry was as follows:

San Ysidro, California	4,242
Tecate, California	13
Calexico, California	1,321
Andrade, California	11
San Luis, Arizona	63
Lukeville, Arizona	1
Sasabe, Arizona	4
Nogales, Arizona	369
Naco, Arizona	19
Douglas, Arizona	155
Columbus, New Mexico	2
El Paso, Texas	2,419
Fabens, Texas	50
Fort Hancock, Texas	1
Presidio, Texas	24
Del Rio, Texas	217
Eagle Pass, Texas	466
Laredo, Texas	820
Roma, Texas	39
Hidalgo, Texas	134
Progresso, Texas	32
Brownsville, Texas	594
Total	10,996

Subcommittee Inquiry

10. The Subcommittee requests the following information by filing location or geographic location, from the I-53s filed in January 1969, by both seasonal and daily commuters.
    a. What was the average age (or age range) and sex of filers?
    b. What were the responses and totals to questions 11, 12 and 13?
    c. How many alien registration card (I-53) filers are employed, or not?
    d. How many agricultural laborers that commute are employed, or unemployed?
    e. Is a routine check made to determine whether or not commuters are employed? If so, by whom, and explain the procedures used.
    f. How many commuters lose their status each year?
    g. If a green card holder works in the fields for five months in this country, and returns to Mexico for seven months, does he lose his right to come back into this country the next year? If not, why not?
    h. What does the Service plan to do about commuters who check box one of question 11, indicating that they have never worked in the United States, or who indicated that they work seasonally in the United States for periods of less than 6 months?
    i. What does the Service plan to do with workers who check box two of question 12, indicating that they were unemployed in January?
    j. Is it true that commuters at the Detroit, Michigan, port are checked regularly on their continued employment, or lack of it, while this is not routinely done along the Mexican border? If so, please explain.

Response

In January 1969 26,189 persons claimed status as daily commuters, 6,865 claimed status as seasonal commuters.

The attached reports, set forth as Exhibit A, contain all the information requested for item (a) through (d), listed for each category by filing office. Exhibit B is a map identifying the

geographical areas and symbols referred to in Exhibit A. Age and sex and occupation totals do not match status totals, because some respondents did not answer items or listed some categories more than once. In addition, the following summaries respond to the Subcommittee's specific inquiries.

a. (age & sex)

Commuters

Age

Born After 1950	Between 1930-1950	Between 1920-1930	Prior to 1920
1,304	11,636	7,444	5,512

Sex

Male	Female
16,679	9,210

Seasonal Commuters

Age

Born After 1950	Between 1930-1950	Between 1920-1930	Prior to 1920
592	3,111	1,618	1,316

Sex

Male	Female
5,054	1,518

b. (analysis of answers to questions 11, 12 and 13 on Form I-53)

(11) Employment in the United States

	Commuter	Seasonal
1. never employed	416	156
2. employed (see Exhibit C for occupational breakdown)	24,289	3,889
3. work seasonally	614	3,653
(12) 1. has present employer	15,800	2,991
2. has recent employer	2,101	2,095
(13) Prior employment (See Exhibit C for occupational breakdown)	26,920	5,858

c. Only 17,901 of the daily commuters responded to question 12 out of a total of 26,189 who reported. Of this number 15,800 listed a present employer. 2,101 listed their most recent employer.

Of the seasonal commuters, 5,086 out of 6,865 filers responded to question 12. 2,991 listed a present employer and 2,095 listed a recent employer.

d. Of the 3,054 farm laborers who reported, in excess of 98% are employed as is shown by the less than 2% response to question 11 (1) by commuters who have never been employed.

e. A determination is made of the admissibility of each person seeking admission to the United States. This, in the case of commuters requires a determination by the inspecting immigration officer that the alien has continued to qualify as a

commuter and has not abandoned his lawful permanent resident status.

In the Southwest Region the interrogation of the commuter by the inspecting officer, starting in November 1967, has culminated in the grommeting of the alien's Form I-151 upon a determination that the alien is a commuter. At some Canadian border ports in the Northwest, notably at Detroit, the alien commuter has been required to exhibit evidence of his U.S. employment every six months. The system used in the Southwest depended upon oral interrogation of the holder of a grommeted Form I-151 to establish his continued eligibility for commuter classification. The "Detroit system" is lacking in assurance that the holder of a Form I-151 is in fact a commuter and therefore, under that system, should be required to exhibit evidence of U.S. employment. The Service has therefore devised and is putting into effect a system which combines the better features of the procedures heretofore in use on each of the two borders. Under the new system, Forms I-151 presented by commuters on either border will be grommeted for ready identification, and the commuter at either border will be required to present evidence of his U.S. employment every six months.

f. There are undoubtedly a number of identified commuters whose commuter status has terminated without knowledge of the Service, by death or by the alien's relinquishment of his U.S. employment and abandonment of intention to resume such employment. The Service usually becomes aware of such terminations only if reported by some interested party. In addition to such reported cases, the Service also notes when a commuter loses that status by actually moving his residence to the United States, or when a commuter is found to be no longer entitled to that status because he has not been employed in this country for over six months. Statistics on the number of commuters on the Mexican border known to have lost that status each month are not available prior to August 1968. From August 1968 through December 1968 there were 271 such commuters known to have lost their status. During calendar year 1969 there were 629 such commuters known to have lost their status.

g. The seasonal workers presenting Form I-151 whose cases have come to attention of the Service have not had an interruption of more than 6 months in their employment in the United States. Consequently their claim to residence status was not inconsistent with established criteria. If such a case involving consecutive absence from employment in the United States for more than 6 months were to come to Service attention, the

Service would contend, in appropriate administrative and judicial proceedings that the alien's commuter status had been abandoned.

h. While the form includes self-identification of commuters and information concerning their employment, it has been determined that the utilization of Forms I-53 to identify aliens ineligible for commuter status is impractical, more expensive, and less effective than interrogation by immigration officers of aliens seeking entry as commuters. Moreover, the Service has made provision for more effective checking of eligibility for admission of aliens seeking admission as commuters at ports of entry, by grommeting their Forms I-151 for ready identification and requiring semiannual submission of evidence of their U.S. employment.

i. As indicated in the response to item (h) above, the Service has made provision for a more effective check at ports of entry, to identify commuters and determine their continued eligibility for that status, in preference to using information furnished on Form I-53 as a basis for making such determinations.

j. Yes, it is true that commuters at Detroit are required to present evidence of U.S. employment semiannually. At Mexican border ports, it has not been the routine practice to require such evidence, and reliance has been had upon oral interrogation

for the most part to establish a commuter's continued eligibility for that status, once he has been issued a grommeted Form I-151. As indicated in the response to item 10 e above, the Service feels that a procedure which combines grommeting of Forms I-151 of commuters for ready identification, with a requirement for presentation by the commuter periodically of evidence of his U.S. employment will be an improvement over the procedures heretofore used either at Detroit or along the Mexican border. Accordingly the Service is placing the new procedure into effect.

Exhibit - "A", question 10

Tables showing age, sex, occupation and prior occupation of commuter workers, by geographical areas

(Material referred to may be found in the files of the Subcommittee)

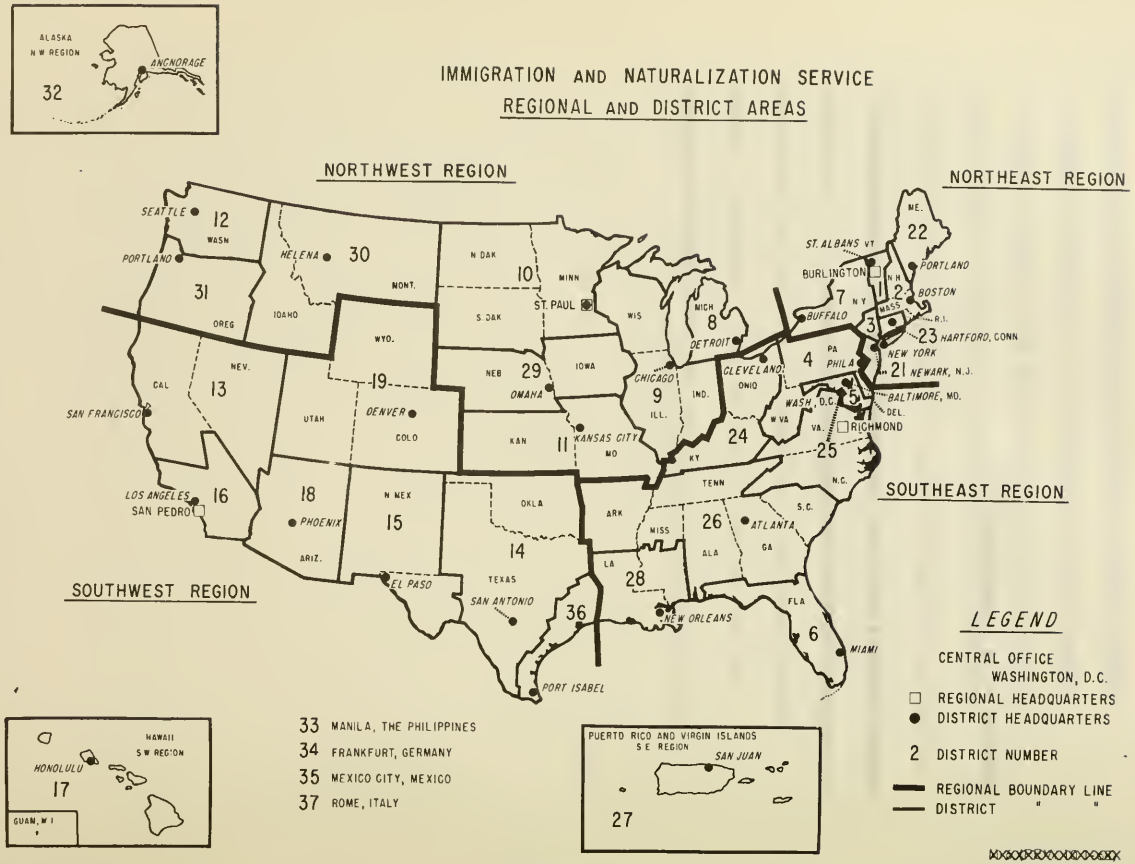

EXHIBIT "B"

M-6 (REV.12-15-69)

2050

REGIONAL AND DISTRICT OFFICE LOCATIONS

Regional Offices

NE Region (BUR)	Burlington, Vermont 05401 Federal Building
NW Region (STP)	Federal Building Fort Snelling Twin Cities, Minn. 55111
SE Region (RIC)	Richmond, Virginia 23240 Federal Bldg., Room 6226 400 North 8th Street
SW Region (SPD)	San Pedro, California 90731 Terminal Island

District Offices

District	
32 (ANC)	Anchorage, Alaska 99501 U.S. Post Office & Courthouse Bldg., Room 143, Box 939
26 (ATL)	Atlanta, Georgia 30309 Rm. 370, 1280 W. Peachtree St. N.W.
5 (BAL)	Baltimore, Maryland 21201 Room 124 Federal Bldg. 31 Hopkins Plaza
2 (BOS)	Boston, Massachusetts 02203 John Fitzgerald Kennedy Federal Bldg., Government Center
7 (BUF)	Buffalo, New York 14202 68 Court Street
9 (CHI)	Chicago, Illinois 60604 Courthouse & Federal Office Bldg. 219 South Dearborn St.
24 (CLE)	Cleveland, Ohio 44199 Rm. 1917 Federal Office Building 1240 East 9th St.
19 (DEN)	Denver, Colorado 80202 17027 Federal Office Building
8 (DET)	Detroit, Michigan 48207 Federal Building 333 Mt. Elliott St.
15 (ELP)	El Paso, Texas 79984 343 U.S. Courthouse
23 (HAR)	Hartford, Connecticut 06101 135 High Street
30 (HEL)	Helena, Montana 59601 Federal Building
17 (HHW)	Honolulu, Hawaii 96809 598 Ala Moana Boulevard
11 (KAN)	Kansas City, Missouri 64106 819 U.S. Courthouse 811 Grand Avenue
16 (LOS)	Los Angeles, California 90012 300 North Los Angeles Street
6 (MIA)	Miami, Florida 33130 Room 1402 Federal Building 51 S.W. First Ave.
21 (NEW)	Newark, New Jersey 07102 970 Broad Street
28 (NOL)	New Orleans, Louisiana 70113 New Federal Building 701 Loyola Avenue
3 (NYC)	New York, New York 10007 20 West Broadway
29 (OMA)	Omaha, Nebraska 68102 New Federal Building 215 North 17th Street
4 (PHI)	Philadelphia, Pa. 19102 128 North Broad Street
18 (PHO)	Phoenix, Arizona 85025 230 North First Avenue
36 (ISB)	Port Isabel, Texas 78566 Route 3 Los Fresnos, Texas
22 (POM)	Portland, Maine 04112 319 U.S. Courthouse
31 (POO)	Portland, Oregon 97205 333 U.S. Courthouse Broadway & Main Streets
1 (STA)	St. Albans, Vermont 05478 Federal Bldg., P. O. Box 591
10 (SPM)	St. Paul, Minnesota 55101 932 New Post Office Bldg. 180 E. Kellogg Blvd.
14 (SNA)	San Antonio, Texas 78206 U.S. Post Office & Courthouse
13 (SFR)	San Francisco, Calif. 94111 Appraisers Building 630 Sansome Street
27 (SAJ)	San Juan, P.R. Pan Am Building 255 Ponce de Leon Corner Bolivia St. Hato Rey, P.R. 00917
12 (SEA)	Seattle, Washington 98134 815 Airport Way, South
25 (WAS)	Washington, D.C. 20536 1025 Vermont Ave., N.W.

District Offices in Foreign Countries

34 (FKG)	Frankfurt, Germany District Director U.S. Immigration and Naturalization Service c/o American Consulate General, Box 12, APO New York, N.Y. 09757
33 (MAP)	Manila, Philippines District Director U.S. Immigration and Naturalization Service c/o American Embassy, APO San Francisco, California 96528
35 (MEX)	Mexico City, Mexico District Director U.S. Immigration and Naturalization Service c/o American Embassy, Paseo De La Reforma 305 Mexico, D.F., Mexico
37 (RIT)	Rome, Italy U.S. Immigration and Naturalization Service c/o American Embassy APO New York, N.Y. 09794

OTHER OFFICES FROM WHICH INFORMATION CONCERNING IMMIGRATION AND NATURALIZATION SERVICE MATTERS MAY BE OBTAINED:

AGA	Agana, Guam 96910 U.S. Immigration and Naturalization Service
ALB	Albany, New York 12201 Room 442, Post Office Bldg. P.O. Box 1519
CIN	Cincinnati, Ohio 45201 U.S. Post Office and Courthouse P.O. Box 537
DAL	Dallas, Texas 75201 608 Mayflower Bldg. 411 North Akard Street
HMM	Hammond, Indiana 46320 411 Federal Building 507 State Street
HOU	Houston, Texas 77061 Federal Building U.S. Courthouse 515 Rusk Avenue, P.O. Box 61630
MEM	Memphis, Tennessee 38103 814 Federal Office Bldg. 167 North Main Street
MIL	Milwaukee, Wisconsin 53202 328 Federal Building 517 East Wisconsin Avenue
NOR	Norfolk, Virginia 23510 426 Post Office Building
PIT	Pittsburgh, Pennsylvania 15222 2130 Federal Building 1000 Liberty Avenue
PRO	Providence, Rhode Island 02903 Federal Building, U.S. Courthouse Exchange Place
REN	Reno, Nevada 89505 Federal Building, U.S. Courthouse Room 1010, 300 Booth Street
STL	St. Louis, Missouri 63101 Room 423, U.S. Courthouse and Customhouse, 1114 Market Street
SLC	Salt Lake City, Utah 84111 Room 4103 Federal Building 125 South State Street
SND	San Diego, California 92104 2223 El Cajon Blvd.
SPO	Spokane, Washington 99201 691 U.S. Courthouse Bldg.

OCCUPATION CODE	(11)2 Present Occupation		13 - Prior Occupation	
	Commuter	Seasonal Worker	Commuter	Seasonal Worker
1 - Professional and technical workers	3,557	319	1,975	206
2 - Farmers, managers, officials and proprietors	839	54	2,760	66
3 - Clerical and sales workers	3,151	162	6,094	134
4 - Craftsman and foreman	3,053	386	2,369	278
6 - Operatives and Kindred workers	1,690	250	1,722	222
8a - Private household workers	1,521	169	1,299	142
8b - Service workers except private household	1,395	109	766	111
9a - Farm laborers and foreman	3,054	1,745	1,446	1,301
9b - Labors, housewives, children and not elsewhere classified	6,716	3,190	8,489	3,398
TOTALS	24,976	6,384	26,920	5,858

Exhibit "C"

Subcommittee Inquiry

11. The Service, because it is seeing a large number of individuals daily, has an immense collection of potentially useful information which should be made available to interested Federal agencies.

a. Please submit the rules, regulations, and program guidelines that you have to implement such inter-departmental, or inter-agency, cooperation.

b. To what extent is wage information, gathered from apprehended illegal immigrants, turned over to the minimum wage law enforcement personnel in the Department of Labor?

c. To what extent is this information given to, or shared with, State authorities?

Response

a. The following guidelines have been issued relating to cooperation with other agencies:

"The jurisdiction of the investigator does not extend beyond the limits of the jurisdiction of the Service as provided by the laws it administers and enforces. For that reason, he must confine his activities within the limits of his authority. It is, however, important to cooperate with other investigative agencies of the Federal Government, and with the investigating officials of state and local authorities. For example, the investigator may come upon evidence of a Federal criminal offense which is within the jurisdiction of another

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agency. He should not attempt to develop the lead himself because he would be encroaching on the jurisdiction of the other agency and in addition might carry the investigation to the point which would embarrass the further proper development of the case by the other agency.

"In the situation described above the investigator should submit a full report of the offense to the appropriate authorities through his immediate supervisor. In an emergency dictating prompt action, he may submit the information himself, directly to the interested authorities."

For information furnished to the Social Security Administration and to the Selective Service authorities, the Subcommittee is referred to our response to questions 17 and 22, respectively.

To implement cooperation with the Internal Revenue Service concerning "Alien residents or certain nonimmigrants seeking to depart without evidence of compliance with the Federal income tax laws in violation of 26 U.S.C. 6851(d)(1)," the Service has issued the following instruction:

"Any alien, other than a nonimmigrant in status who is an A, C-2, C-3, G, or NATO alien, seeking to depart

from the United States temporarily or permanently, in whose case a district director of the Internal Revenue Service has advised in writing that information indicates that the alien may be designing to depart from the United States in violation of the Internal Revenue Code, and prevention of the alien's departure without a certificate of compliance with 26 U.S.C. 6851(d)(1) is requested, shall be served with a written temporary order pursuant to 22 CFR 46.2, directing him not to depart, or to attempt to depart, from the United States until notified of the revocation of the order. A final order preventing departure shall be revoked upon notice by the district director of Internal Revenue that the subject alien's presence in the United States is no longer required (under 22 CFR 46.3(g) or (h)), or upon the alien's presentation of a certificate from the district director of Internal Revenue Service that the alien has complied with the income tax laws."

b. Wage information is not generally obtained from apprehended illegal aliens unless in an individual case such information is necessary in determining the alien's deportability.

However, as requested by that department, the Service furnishes the Department of Labor, at Washington, D. C., copies of Service Form I-213 (Record of Illegal Alien Apprehended or Located) in cases involving all deportable aliens located at place of employment in the United States who entered without inspection or were admitted as nonimmigrants and remained beyond the period of authorized stay or whose employment was

in violation of such status. These forms are also submitted for Mexican aliens who are located employed in agriculture in the Border Patrol Sectors with headquarters at Livermore, Chula Vista, and El Centro, California and Yuma, Arizona. If a group of deportable aliens is simultaneously located in the employment of the same employer, a single copy of the Form I-213 covering one such alien, noted to reflect the number of other such aliens located, is sent.

c. Information is furnished State and locat authorities in accordance with the following guidelines:

"Where the investigator comes upon evidence of violations of state or local laws or ordinances, the information should be furnished through official channels to the state police, local police, sheriff, or other official."

The Subcommittee is referred to our response to question 16, for information furnished State registrars concerning false registrations of birth in the United States uncovered by Service investigations.

Subcommittee Inquiry

12. Many of the workers crossing the border are allegedly United States citizens, and many of them offer birth certificates and baptismal certificates as proof of citizenship. Many of these workers are seeking agricultural jobs, and are hired by labor contractors within a couple of hundred yards of the crossing point. Significant numbers of youngsters under 16 cross the border for farm employment, while local schools are in session. The Fair Labor Standards Act prohibits employment of children under 16 while school is in session. What is the Service doing to give information on this situation to the Labor Department?

Response

The Immigration authorities are empowered to exclude aliens only. Therefore, once an immigration officer is satisfied that the applicant for admission is a citizen of the United States, that citizen is free to pass. The immigration officer must be satisfied that the birth or baptismal certificate presented by the claimant to American citizenship is authentic and relates to the claimant. An applicant who cannot establish that he is a citizen of the United States is inspected as an alien.

The Immigration and Naturalization Service has no authority to prevent the entry or control the employment of United States citizens. Employment has no bearing on a United States citizen's right to enter the United States, and therefore the Service maintains no information on the employment of United States citizens.

Subcommittee Inquiry

13. Green card holders must pay U.S. income taxes. To what extent, and in what manner, is the Service cooperating with the Internal Revenue Service to help collect income taxes from Green Card Commuters?

a. Have there been conversations between the Immigration Service and the Internal Revenue Service about the desirability of requiring an annual tax clearance, like the so-called "sailing permit" required of other non-resident workers, from Green Card commuters?

b. It is our understanding that annual tax clearances are not now required of most commuters, though there may be a nominal requirement that such forms must be filed by farmworkers (and others who do not have taxes withheld by their employers). Is this true?

Response

a. There have been no discussions on this subject.

b. When an alien is detained in a Service detention facility he is required to disclose the amount of funds he has on his person. If the amount is considerable the local Internal Revenue Service office is informed. The alien is then interviewed by an agent of that Service to determine tax liability. Any tax due is collected by the Internal Revenue agent directly from the alien. Otherwise, the Service has not been in a position to check on compliance by alien commuters with Internal Revenue requirements.

Subcommittee Inquiry

14. When apprehended illegals are caught while working, the Service must note the name of the employer and the worker's wage rate. To what extent is this information made available to the Social Security system so that it can make sure that contributions are made by worker and employer for this work--which though illegal, is still covered by the Social Security law?

Response

The Service does not normally note the wage rate of aliens who entered without inspection. Apprehended aliens are afforded the opportunity to collect any wages due, or to arrange for the money to be sent them, or to refer their claims to the appropriate foreign government consul. No arrangement has been made, nor has one been requested by Social Security to notify that agency of illegal aliens apprehended, except as outlined in the response to Question 17.

Subcommittee Inquiry

15. Although the Service has social security numbers on some of its forms, we understand that the Service's files are maintained on the "A" numerical filing system, not by Social Security numbers. Meanwhile, the Federal income tax, social security, and unemployment insurance systems, to name a few, are all keyed to the social security number. Has the Immigration Service thought about converting its filing system to that used by Social Security?

Response

The Service has considered the use of social security numbers for its file system. However, it has concluded that such conversion would not be feasible.

To the extent possible Service files are keyed to the subject's alien registration number. Ordinarily this number appears on the alien registration receipt card, Form I-151 (referred to as the green card), which is issued upon entry. A new immigrant ordinarily does not have a social security number at the time of entry and therefore it would not be feasible to set up his file under a social security number at that time. Changing his file number when he ultimately gets a social security number would be costly, time-consuming, and unsatisfactory. Since there would be no assurance of complete coverage or coordination, such a plan would result in having two filing systems covering the same individuals.

Additionally, the Service opens files on persons who have not come to the United States (posting lookouts, visa petition cases, etc.), and on many nonimmigrants who are prohibited from working and who therefore should not apply for a social security number which might induce a belief that they were entitled to work.

Consequently it has been concluded that conversion to social security numbers would not be advantageous to the Service and would not be as economical or as effective as the present system. The inclusion of the social security number on various forms provides sufficient information to agencies that use the social security number for their records and files.

Subcommittee Inquiry

16. What is the Service's policy on the acceptance of birth and baptismal certificates as proof of citizenship by commuting U. S. citizens?
    a. How many birth and baptismal certificates have been validated in the last six months?
    b. At what rate does the Service plan to check them?
    c. How many birth certificates have been found to be fraudulent in the last three months? six months? year?
    d. To what extent are pregnant Mexican women coming to the U. S. to give birth to children, thus guaranteeing U. S. citizenship for them?
    e. How widespread is the reported practice of midwives along the border, for a fee, fraudulently claiming to attend the birth of a child in the U. S.? Have there ever been any prosecutions of this practice?

Response

As indicated in the response to question 1.a, a birth or baptismal certificate presented by the rightful holder is considered as prima facie evidence of citizenship, but is not conclusive evidence since the inspecting officer must be satisfied that the applicant for entry is a United States citizen.

a. and b. The Service has no plan or program of validating birth certificates. Birth and baptismal certificates used to support false claims to United States citizenship and other data are indexed at a central location as a means to identify suspected violators.

c. During calendar year 1969 the Service Fraudulent Document Center in Yuma, Arizona, received 3,263 birth certificates found by Service officers to be fraudulent or were being used by other than the persons to whom the certificates referred. There were also 411 baptismal certificates received under the same circumstances.

During the last six months of calendar year 1969, 1,765 of these cases were received, and 781 cases in the last three months of that year.

The Fraudulent Document Center has now received and indexed some 22,688 cases involving Mexican aliens who made false claims to United States citizenship supported by birth or baptismal certificates.

d. The situation does occur but the extent of such activity is unknown, although it is believed to be infrequent. Admittedly, the possibility for such incidents exists, since many female Mexicans have nonimmigrant documents for admission to the United States, and pregnancy is not a ground of inadmissibility unless the alien is found likely to become a public charge when applying for admission. Many Mexican citizens use medical facilities and doctors in the United States.

e. Investigations of false birth registrations have thus far identified 22 Texas midwives who falsely registered births in the United States

of over 1500 children who were actually born in Mexico. The parents of these children were all applicants, or intended applicants, for immigrant visas. The Department of State and local state registrars are being kept fully informed of results of these investigations. The local authorities are being requested to note or purge the false registration records to preclude their illegal use in the future, whether to support visa or United States passport applications by the purported U.S. citizens.

Investigations are continuing looking to the prosecution of these midwives for violations of 18 U.S.C. 1425(b) (procurement of citizenship or naturalization unlawfully). The criminal prosecutions have been completed in the following cases, but the investigations are continuing to clear up all of the false birth registrations.

Catalina Hernandez was indicted by a federal grand jury at Del Rio, Texas on September 5, 1968 on five counts charging her with violations of 18 U.S.C. 1425(b). She pleaded not guilty at arraignment, but later changed her plea to guilty as charged. On July 24, 1969 she was sentenced to serve nine months with execution of sentence suspended for five years. She was placed on probation with supervision for the first two years conditioned on her good behavior and continued cooperation with the Service in identifying and clearing up the false birth

registrations created by her. This subject and her mother, Juanita Rodriguez, together filed a total of 1700 birth registrations during a period from 1958 to 1969. She has estimated that 800 of these were false. Investigation to date has verified that 90 are false registrations. On September 6, 1968 a complaint was also filed against her mother, Juanita Rodriguez, charging her with violation of 18 U.S.C. 1425(b). Due to her advanced age and as a result of her daughter's cooperation, her case has never been presented to the federal grand jury.

Rosalia Sanchez De Granillo, also known as Rosalia Granillo, was indicted by a federal grand jury at El Paso, Texas on April 1, 1969 on ten counts for violations of 18 U.S.C. 1425(b). On July 1, 1969 she entered a plea of guilty to one count. On July 31, 1969, imposition of sentence was deferred until June 4, 1970 contingent upon her cooperation with the Service in identifying all false U.S. birth registrations filed by her on behalf of alien-born children. This subject filed 300 birth registrations during a period from 1962 to 1968. Investigation to date has verified that 132 out of 255 are false registrations.

Guadalupe Arellano was indicted by a federal grand jury at Del Rio, Texas on September 5, 1968 on six counts charging her with violations of 18 U.S.C. 1425(b). Arellano pleaded not guilty at arraignment,

but later entered a plea of guilty as charged. On July 24, 1969 she was sentenced to serve nine months, with execution of sentence suspended for five years. She was placed on probation for five years, with supervision for the first two years conditioned on her good behavior and continued cooperation with the Service in identifying and clearing up the false registrations created by her. This subject registered 298 births at Eagle Pass, Texas during the period from 1965 to 1968. She has acknowledged that 278 of the registrations are false, and investigation to date has verified that 102 are false registrations.

Guadalupe San Miguel was arraigned in Federal Court, Del Rio, Texas on October 11, 1968 and pleaded guilty to four counts under 18 U.S.C. 1425(b). On November 26, 1968, she was sentenced to six months imprisonment and fined $500. The execution of the sentence as to confinement was suspended and she was placed on probation with supervision, for five years. This subject registered 416 births at Eagle Pass, Texas during a period from 1965 to 1968. Forty-three registrations have been verified as being false and from the investigation to date it appears that more than half of the total registrations are false.

Matiana Castillo was indicted by a federal grand jury at Brownsville, Texas on May 26, 1969 on nine counts for violations of 18 U.S.C. 1425(b).

She pleaded guilty to two counts of the indictment. On November 7, 1969 she was sentenced to two years, suspended and placed on probation for three years conditioned on her cooperation with the Service in clearing up the false registrations created by her. She acknowledged that 45 of the 476 registrations filed by her during a period from 1965 to 1969 are false.

Flora Calderon was indicted on seven counts under 18 U.S.C. 1425(b) and two counts under 18 U.S.C. 1324(a)(1) and (a)(4). On March 6, 1964 in the U.S. District Court, Laredo, Texas, she pleaded guilty to one count of the indictment and was sentenced to serve 13 months. She had filed 300 birth registrations during a period from 1956 to 1964. Investigation to date has verified that 11 such registrations are false.

Alejandra Hernandez was indicted April 30, 1968, by a state grand jury, Brownsville, Texas, on one count for violation of Texas Penal Code Section 781 (false birth registration). She pleaded guilty and was fined $50, with payment of fine suspended. She acknowledged that more than 200 of the 350 birth registrations filed by her were false. Investigation to date has verified that 62 such registrations are false.

Subcommittee Inquiry

17. When the Service apprehends an illegal with a Social Security card, what is done with the card? If Social Security employment offices are not informed, please explain why not.

Response

The Service participated in a meeting at the headquarters of the Social Security Administration, Baltimore, Maryland, on March 15, 1968. At that meeting, in response to a request from the Department of Labor that the issuance of Social Security cards be withheld from aliens who are in the United States in a status under which they cannot work, the Social Security officials stated that, insofar as they knew, a Social Security account number had never been withheld from an applicant and that they knew of no authority under the laws governing the administration of Social Security which would authorize them to withhold the issuance of such a card to any applicant. The same view was expressed in response to earlier representations by this Service. (See attached copy of letter dated August 6, 1954 from the Secretary of Health, Education and Welfare to the Attorney General.) In the circumstances, the Service does not believe that it has authority to lift Social Security cards obtained by an alien illegally in the United States. Moreover, in light of the views consistently expressed by the Social Security Administration, the Service

believes that no purpose would be served by informing the Social Security employment offices in such cases, and ordinarily they are not notified.

However, when any alien has a social security card which apparently relates to another person and for which the possessor had not applied under an assumed name, the card is lifted and forwarded to the District Director, INS, Baltimore, Maryland, for delivery to the Social Security Administration. Lifted cards are stapled to a copy of relating Form I-213, sworn statement, or other report which reflects the circumstances under which the alien obtained the card and the card was lifted.

36-513 O - 70 - pt. 5A - 9

DEPARTMENT OF
HEALTH, EDUCATION, AND WELFARE
WASHINGTON
Zone 25

AUG -6 1954

Dear Mr. Attorney General:

This refers to your letter of July 7, 1954, with which you enclosed a memorandum from General Swing, Commissioner of Immigration and Naturalization Service, as well as a letter to him from Mr. W. Heebing, Chief of Police, San Fernando, California, relating to the issuance of social security account numbers to aliens who are illegally in this country. You requested advice as to whether it would be possible and feasible for social security field offices to institute procedures which would prevent the issuance of social security cards to such aliens. It was your feeling that it would be difficult for most of these aliens to obtain employment without social security account numbers and as a result the major inducement for their seeking illegal entry would be removed.

This Department under the law and regulations has no discretion either as to the coverage of services of aliens illegally resident in the United States or to the issuance of account numbers to such persons. Title II of the Social Security Act, as amended, makes no distinction between citizens, aliens legally resident in the United States or aliens illegally here to determine whether services performed in the United States by an individual constitute "employment." Section 210(a) of the Act specifically provides "The term 'employment' means any service performed after 1936 and prior to 1951 which was employment for the purposes of this Title under the law applicable to the period in which such service was performed, and any service, of whatever nature, performed after 1950 either (A) by an employee for the person employing him, irrespective of the citizenship or residence of either. . . or (B) outside the United States by a citizen of the United States as an employee for an American employer. . ." Section 404.1003 of Social Security Administration Regulations No. 4 states ". . . With respect to services performed within the United States, the place where the contract of services entered into and the citizenship or residence of the employee or of the employer are immaterial. . ." Thus, under the law if services constitute "employment" ordinarily the remuneration therefore is taxable and must be reported and the individual is entitled to wage credits on his social security account.

C
O
P
Y

The social security account number is the means by which an individual's social security account is distinguished from all others and serves to insure the accurate reporting and recordation of his wages. In this connection you may wish to refer to Sections 408.502 through 408.504 of U.S. Treasury Department Regulations No. 128, which in substance require employees to secure social security account numbers and employers to identify employees for whom they report wages by their account numbers.

You are no doubt aware that H.R. 9366, enacted by the House of Representatives on June 1, 1954, provides that wages and self-employment income derived by an individual during any period that he is unlawfully in the United States shall be deleted from his wage record and shall not be counted for purposes of determining entitlement to or amount of benefits. The bill also provides for a termination of benefits payable on the account of an individual who has been deported under certain provisions of the Immigration and Nationality Act. Such action will be taken by this Department upon notification from the Attorney General. H.R. 9366 does not except the services of such persons from coverage nor does it exclude the amounts earned from "wages" or "self-employment income." Such amounts will remain taxable under the Federal Insurance Contributions Act or the Self-Employment Contributions Act. Therefore, it will still be necessary that social security accounts be maintained to record earnings for those persons who may be affected by these provisions as well as other workers.

We do not believe that an adjudication of the question as to whether an individual is legally resident in this country is within the jurisdiction of this Department. However, apart from the question of jurisdiction, any effort by the Department to participate in such an adjudication would, we believe, involve the establishment and maintenance of laborious and expensive procedures without the accomplishment of the objective of keeping aliens illegally in the United States from obtaining employment. Each week the Social Security Administration Field Offices receive approximately 80,000 applications for social security account numbers and a comparable number for requests of duplicate account numbers. Although many of the applications are filed in person with representatives of the Social Security Administration a substantial number are issued without personal contact. The application for account number does not elicit information as to citizenship as it is not necessary for the administration of the social security program. It would be only realistic to assume that if it were revised to require such information those persons illegally in this country would furnish fictitious names and other data. Incorrect information as to large numbers of social security account number holders would seriously interfere with the basic

operations and services of the old-age and survivors insurance program while at the same time frustrating the purpose of identifying aliens illegally residing in this country. The impairment of social security records arising from erroneous reportings and earnings discrepancies, and the annoyance to many applicants who are citizens or who are legally in this country would not appear to be warranted under these circumstances.

You may be interested in the fact that we have recently had a discussion with Mr. Reimel of the California Department of Employment in which various phases of the "wetback" problem and possible solutions were discussed. We have also had correspondence with Senator Kuchel in response to his inquiry on behalf of Governor Knight of California and with a representative of the California State Chamber of Commerce relating to the same problem. From our discussions and our correspondence it appears that the California problem might be most effectively resolved by a more direct approach such as encouraging California employers to discontinue employing persons not legally residing in the United States or encouraging unions not to issue union cards to such persons.

I regret that the Department is not in a position to be more helpful in this matter. Should you feel, however, that a further discussion of the various facets of this problem would be desirable I shall be pleased to arrange for such a meeting at a time convenient to you. I am returning the copies of the correspondence which you enclosed with your letter.

Sincerely yours,

(S) Oveta Culp Hobby

Secretary

The Honorable
Attorney General
Department of Justice
Washington 25, D.C.

Enclosure

Subcommittee Inquiry

18. Please submit a map of the U. S. - Mexico border, showing the number of Border Patrolmen stationed along the border, at the point of the lowest staffing level (presumably the middle of the night). Please prepare the map to show the length of territory covered by each group of Patrolmen. Show only those men who are actually working the border, on foot, in cars, and in the air, but do not include men stationed at the crossing points. Please supply a similar map, by port, showing the maximum number of employees stationed at the border either temporarily or permanently, during Operation Intercept.

Response

Attachment A is a map showing the Border Patrol Sectors covering the Mexican Border, the number of officer personnel assigned as of January 31, 1970, and the number of miles of land border covered by each sector.

Border Patrol operations along the border designed to prevent the illegal entry of aliens and apprehend those who do so along with any persons engaged in the smuggling of such aliens includes linewatch, signcutting, traffic check, transportation check, patrol and city patrol, and farm-ranch check. Thus the actual visual watching of the border is only one phase of the work.

Personnel is assigned according to the areas of highest illegal entry potential. Generally, the highest potentials exist where there are greater densities of population on both sides of the border. Work assignments cover twenty-four hours per day when required for adequate coverage, with the bulk of the officers being assigned to work during the hours of darkness as the period of dusk until approximately midnight and at daybreak or shortly thereafter is when the highest incidence of illegal entries occur. Thus, the actual assigned hours varies at different times of the year.

A sample survey of the work assignments along the entire border showed approximately 64% of the on duty personnel assigned to shifts falling within all or part of the 6:00 p.m. to 6:00 a.m. period of the day. The lowest number of personnel is assigned during the period 2:00 a.m. to 5:00 a.m. followed closely by the period of about 1:00 p.m. until 4:00 p.m. which is the period after the early morning shift goes off duty and before the bulk of the evening shifts begin which generally start at 3:00 to 4:00 p.m.

As of February 1, 1970, the Border Patrol had an on-duty officer force in field operations of 1,454 men. Of these, 1,205 were

assigned to the Mexican Border area and all of these were assigned to the ten sectors along the border except 70 officers assigned to the Livermore, California, Sector.

Appropriation for fiscal year 1970 provides for an increase of 115 officers in the Border Patrol force. The Service is now in the process of recruiting the additional officers and 71 have entered on duty. All but two of these additional officers are being assigned to the Mexican Border area.

Attachment B is a map showing the number of Immigrant Inspectors stationed at ports of entry on the Mexican Border during Operation Intercept.

There was no increase in the number of officers assigned to these ports during Operation Intercept. In order to increase Service manpower during that Operation, immigrant inspectors worked seven days a week with the sixth day worked on an overtime basis. Sunday inspection is always covered on an overtime basis under existing law.

ATTACHMENT 18-A

(The map requested by the Subcommittee has been retained in the files of the Subcommittee. The following data are extracted from the map)

BORDER PATROL SECTORS, OFFICER FORCES, AND INTERNATIONAL BOUNDARY MILEAGES - SOUTHWEST REGION. Note: Officers refers to On-Duty force on January 31, 1970. Miles refers to estimated distance on U.S. - Mexican Border within each sectors' boundaries (Livermore Sector has no U.S.-Mexican Border area).

- - - - - - - - - - - - - - - - - -

SECTOR	OFFICERS	MILES
CALIFORNIA		
Livermore	70	0
Chula Vista	232	66
El Centro	169	82
ARIZONA		
Yuma	79	118
Tucson	62	265
TEXAS		
El Paso	157	342
Marfa	79	364
Del Rio	122	205
Laredo	66	168
McAllen	70	152
Port Isabel	80	117

ATTACHMENT 18-B

(The map requested by the Subcommittee has been retained in the files of the Subcommittee. The following data are extracted from the map)

IMMIGRATION INSPECTORS AT BORDER PORTS DURING OPERATION INTERCEPT

- -

CALIFORNIA
- San Ysidro - 38
- Tecate - 3
- Calexico - 16
- Andrade - 3

ARIZONA
- San Luis - 7
- Lukeville - 3
- Sasabe - 2
- Nogales - 15
- Naco - 4
- Douglas - 7

NEW MEXICO
- Columbus - 3

TEXAS
- El Paso - 46
- Fabens - 3
- Presidio - 3
- Del Rio - 10
- Eagle Pass - 9
- Laredo - 19
- Roma - 10
- Los Ebanos - 1
- Hidalgo - 14
- Progreso - 3
- Brownsville - 21

Subcommittee Inquiry

19. The Subcommittee understands that a group of illegals, detained in California to testify in trials of smugglers, are allowed to do farm work.

    a. What steps has the Service taken to assure that these detained illegals, a totally controllable work force, do not cause an adverse effect on the resident labor force?

    b. Is it true that some of these detainees are allowed to stay in this status for as much as a year?

    c. Are these workers allowed to work at places found to be in a labor dispute status by the Secretary of Labor? If so, please explain.

    d. How does this compare with the government policy on prison labor?

Response

These witnesses are needed to testify at trials where the defendant is charged with alien smuggling. Within the jurisdiction of the United States District Court for the Southern District of California, Southern Division, San Diego, such witnesses are farmed out pursuant to court order, a copy of which is attached. The Service has sought to have the court relieve it of its responsibility to supervise the farming out of such witnesses, but the court has directed the Service to continue exercising such responsibility.

a. No witness is farmed out to an employer unless that employer has a current work order with the State Labor Department, and the farmed-out worker is paid the "adverse effect" wage, which is equal to the wage that must be paid to immigrants seeking to enter for employment. Consequently, there is no adverse effect on local labor.

b. At the end of December 1969, there was a total of 85 witnessesfarmed out throughout the State of California. Of these, there were four in that status since April 1969, two since May, two since June, 14 since July, four since August, 11 since September, 25 since October, and the remaining 23 had been farmed out less than 60 days.

c. No.

d. They are not susceptible to comparison. The farmed-out witness is not detained for criminal prosecution or punishment nor is there any criminal charge pending against him, and he is receiving the going wage rate for his labors. He is permitted to work, at his own option and pursuant to court order, while he is being detained as a material witness in a pending criminal prosecution.

Attachment

APR 23 1969
UNITED STATES ATTORNEY
SAN DIEGO, CALIFORNIA

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

APR 23 19..
CLERK, U. S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIF.
By

IN THE MATTER OF ALLOWING ALIEN)
) GENERAL ORDER NO. 85
WITNESSES TO WORK PENDING TRIAL)

Until further order of the court, and unless special circumstances require otherwise, in order to save the Government expense incurred by lengthy incarceration of material witnesses and to keep such witnesses segregated from defendants,

IT IS ORDERED that material alien witnesses in alien smuggling and transporting cases be allowed to work, pending trial, on Southern California farms if they manifest a desire to do so.

Arrangements for farm work and transportation to place of employment and return of said material witnesses to testify at trial shall be the responsibility of the Immigration and Naturalization Service. Pending arrangements for farm work and transportation to place of employment, and after return to testify at trial, the said material alien witnesses shall remain in the custody of the Immigration and Naturalization Service until completion of trial and for the purpose of effecting their removal from the United States upon completion of the trial.

Any material witness for whom work is secured shall execute a personal appearance bond in the amount of $2,000.00, and shall assign fifty percent (50%) of his net wages as security for the performance of the conditions of said bond. The said fifty percent of the witness's wages shall be held by the employer until released in writing by an agent of the Immigration and Naturalization Service.

In event said material witness fails to appear at the trial, or leaves his employment without the written consent of an agent of the Immigration and Naturalization Service, the employer shall, upon order of the Clerk of this court, pay any retained wages into the registry of this court.

A copy of this order, appearance bond, and assignment of wages, shall be delivered to each employer, who shall acknowledge receipt of said documents and consent to the terms thereof.

This order will supersede General Order No. 72, dated October 15, 1968.

DATED: April 22, 1969.

Fred Kunzel

Fred Kunzel, Chief U. S. District Judge

Edward J. Schwartz, U. S. District Judge

Subcommittee Inquiry

20. The Subcommittee heard testimony that every morning about 3 a.m. buses leave Calexico, California, loaded with green card holders, headed for grape ranches in the Coachella Valley, where strikes have been certified by the Secretary of Labor. What is being done to enforce the Service's regulations that relate to this matter?

Response

20. All Service offices are promptly informed where the Department of Labor announces that a labor dispute or layoff of employees is in progress at a named place of employment. Applicants for entry coming to be employed at the named place will not be admitted with Form I-151, if such applicants are found to be within the purview of 8 CFR 211.1(b)(1).

During peak harvest seasons truckers go to the vicinity of the port of entry at Calexico to transport workers to the harvest area. If green card holders seeking work pass through the port of entry, they are checked by inspecting officers to determine their admissibility and warned of being deportable if they obtain employment on struck farms. The workers on trucks also are checked at traffic check points, which are between the border and the Coachella Valley. Their destination is determined and if not destined to struck farms they are told of the regulations about working on struck farms and furnished a current list of such places.

If it is determined that any of the workers have entered from Mexico and are inadmissible under outstanding regulations, they are not permitted to proceed.

Traffic check points pass on information to other Patrol units to insure the various trucks go to non-struck farms as stated by the drivers when being checked. Patrol Inspectors also go into the fields and check workers to determine if they are legally in the United States and also whether green card holders are admissible under present regulations. If they claim homes in the United States, this information is checked out and indices are maintained by the Service for identification purposes.

The Service has obtained no evidence that green card holders are being picked up in the border towns and transported to struck farms. All allegations as to such activity are investigated, including verification of residence of green card holders located on struck farms. Over 840 field interviews of green card holders have been conducted in the Coachella Valley since March 1, 1969.

Subcommittee Inquiry

21. It is well known throughout the border area that so-called "wet maids" are numerous and badly underpaid, sometimes getting as little as $8 to $10 a week plus room and board for long, long hours of work. What is the Service doing to change this situation?

Response

The Service is continuously attempting to identify and expel any alien who is in the United States illegally, including "wet maids". Since the controlling consideration in such cases is the alien's illegal presence in the United States, the Service is discharging its responsibilities by seeking to locate and remove such illegal aliens.

Subcommittee Inquiry

22. What are the Service's regulations regarding registration for the draft? When the Service apprehends a commuter who does not have a draft card, does the Service turn his name over to the draft system on the grounds that he should be registered for the draft, and isn't? Please explain.

Response

Foreign Service Form FS-549, Selective Service Registration Notice (copy of which is attached), is attached to the visa of every male person required to register under the Selective Service laws upon entering the United States as an immigrant. The Immigration officer stamps this form with the Service admission stamp when the alien is admitted, staples this form to the front of the immigrant visa, and forwards it to the office having jurisdiction over the alien's intended place of residence. That office prints the alien's name and address in the United States on the face of FS-549 and mails it to the state director for Selective Service in the respective state of the alien's intended residence. Similarly, the Service also notifies Selective Service when an alien is granted adjustment to permanent residence status in the United States.

When the Service apprehends a commuter who does not have a draft card and it appears that there has been a violation of the Selective Service Act of 1948, as amended, an immediate report is made to the

state director of Selective Service for the state where the individual is registered or resides. All available information, including any explanation of the apparent violation, is furnished. That officer will refer appropriate cases to the FBI for investigation and/or prosecution. The state director of Selective Service is requested to inform the submitting office of his decision so that Service action may be completed on the case. The FBI is charged with the responsibility of investigating violations of the Selective Act of 1948, as amended.

If a commuter or any other alien has a Selective Service Registration Card, it is lifted at the time he is deported or voluntarily departs from the United States and the card is returned to the issuing Selective Service office.

36-513 O - 70 - 5A - 10

DEPARTMENT OF STATE
SELECTIVE SERVICE REGISTRATION NOTICE

PLACE

DATE

REGISTRATION INFORMATION

Every male person 18 years of age or older who was born on or after September 15, 1925 must register with a local board of the Selective Service System within six months following the date on which he entered any part of the United States and may be subject to service in the Armed Forces of the United States under applicable laws and regulations. Under present law persons over 26 years of age are not subject to service except persons in a medical, dental or allied specialist category who may be subject to such service until they are 35 years old.

I have read and understand the above information.

(Post, when necessary, shall translate the English text into the local language in the following space.)

NAME (Type or print)	DATE OF BIRTH	SIGNATURE OF IMMIGRANT
ADDRESS TO WHICH DESTINED IN U.S.		

FORM FS-549
6-67

Subcommittee Inquiry

23. To what extent do green card commuters and illegal workers contribute to the flow of narcotics across the border?

a. Did "Operation Intercept" reveal any evidence to support the theory that farm workers were the chief smugglers of drugs into the United States?

b. How many persons identified as farm workers were picked up during "Operation Intercept"?

Response

Although commuters and illegal workers may bring narcotics into the United States, it is not believed that this group smuggles narcotics to any great extent.

a. The Service has no evidence that any of the persons (United States citizens or aliens) involved in marijuana, narcotics, and dangerous drugs smuggling were farm laborers.

b. During the period of "Operation Intercept" (September 14, through November 2, 1969), the Border Patrol apprehended, in the immediate Mexican border area, 22,237 deportable aliens and 428 alien smuggling principals involving 1,770 smuggled aliens. These aliens were apprehended at time of entry or shortly thereafter and were not employed.

During October 1969, which was two-thirds of the time of "Operation Intercept", the Service apprehended 2,797 Mexican aliens employed in agriculture with 2,448 of these being apprehended in the Southwest Region.

Subcommittee Inquiry

24. The Subcommittee has been told that border area officers of the U.S. Employment Service do not require job applicants to show proof that they are in the U.S. legally, nor do Social Security offices require such proof before issuing Social Security cards. Hence an illegal entrant could show up for a job, particularly a farm job, with a nice new social security card, and a reference from the U.S. Employment Service. What has the Service done to try to change this pattern? If you are not aware of this, please explain.

Response

Social Security offices do not require proof that an alien is in the United States legally before issuing Social Security cards. This is discussed in the answer to the Subcommittee's question No. 17.

From time to time employers in California have alleged that to require an alien applicant for employment to present his Alien Registration Receipt Card would be a violation of the California Fair Employment Practice Act. As a result of an exchange of correspondence between the Service Regional Counsel, Southwest Region, the Senior Legal Counsel of the California Fair Employment Practice Commission, on September 1, 1967, concluded that it was not a violation of the California Fair Employment Practice Act to ask a non-citizen who is an applicant for employment to present his Alien Registration Receipt Card. Following

this exchange of correspondence, the Division of Farm Labor Service, California Department of Employment, on October 25, 1967, amended its Operations Manual as follows:

"3. The U.S. Immigration and Naturalization Service requested the Fair Employment Practice Commission to reconsider their policy regarding the interviewing of a professed alien regarding his legal status during the pre-employment interview.

As a result of this request, the Fair Employment Practice Commission has modified their policy as follows:

> 'To request presentation of the Alien Registration Receipt Card from the applicant, who says he is not a U.S. Citizen, would not be violative of the spirit and letter of the Fair Employment Practice Act. This is true since the card does not disclose the national origin or other information prescribed by the Act.'

"4. This amendment revises the manual instructions pertaining to the registration and referral of a professed alien to agricultural employment. Under this new policy and procedure you will

not: (1) complete an application card for such an applicant unless he can produce a valid Alien Registration Receipt Card, or (2) during the individual selection interview, determine to refer the applicant if he states he is a non-citizen, until he produces his Alien Registration Receipt Card as proof of right to work. This procedure will only be followed in those instances where an individual selection interview is used in the placement process."

As a result of this determination by the California Fair Employment Practice Commission, the District Director of this Service at Los Angeles sent a letter, copy of which is attached, to all employers within the territorial jurisdiction of the Los Angeles District where Service records indicated illegal aliens had been found employed, advising those employers that they are permitted by law to inquire of their employees as to their right to be employed in the United States.

On December 30, 1968 the Department of Labor, at Washington, D.C., wrote to all of their regional administrators concerning aliens legally eligible for employment, pointing

out that Section 60.6(j) of Title 29 of the Code of Federal Regulations provides that one of the matters that will be considered in determining whether the admission of an alien worker will have any adverse effect on U.S. workers similarly employed pursuant to section 212(a)(14) of the Immigration and Nationality Act is the following:

> That such employment is not with an employer who has within three years prior to the offer hired an alien who (1) entered the United States without inspection, or (2) was in the United States as a nonimmigrant and whose employment violated his nonimmigrant status, unless such employer demonstrates that he did not know, had no reasonable grounds to know, or could not by reasonable inquiry have ascertained knowledge of these circumstances.

The Labor Department stated that it was important to keep in mind that at no time should an employee of the Department of Labor or of an affiliated State Employment Security Agency refer to an employer for employment an alien in the United States on any visa which does not permit the alien to enter into paid employment, and that it would be most embarrassing should an alien not legally qualified to work be referred to an employer in view of section 60.6(j) of Title 29 CFR.

This instruction contained the following information:

The new Form ES-511 - Application Card - will include items which will serve to alert local offices that a job applicant may be illegally seeking employment. Whenever an entry on an application card or information developed in an interview is such as to raise questions as to the alien's status, his alien registration card should be examined to determine whether he is legally eligible to work.

Since it is the policy of the U.S. Employment Service to refer to employers only persons 'legally qualified to work', local offices should make a special effort to determine whether an alien applicant for employment may legally work. If there is anything questionable about the alien's status, inquiry should be made of the Immigration and Naturalization Service.

The Immigration and Naturalization Service has prepared a booklet, "Documentary Requirements for Aliens in the United States", containing facsimile registration cards showing when an alien may legally work. The Immigration and Naturalization

Service is forwarding to all regional offices sufficient copies of the booklet for distribution to local offices. Should additional booklets be required for use of the Department of Labor, they may be obtained from any District Director of the Immigration and Naturalization Service.

Please disseminate this information to the State agencies.

In response to an inquiry of September 2, 1969 from the Hunt-Wesson Foods, Inc., Fullerton, California, the Senior Attorney, Office of the General Counsel, U.S. Equal Employment Commission, Washington, D.C., concluded that "it would appear that questioning applicants and employees who are aliens as to their legal right to be in the United States, and requesting proof of such right, in order to cooperate with law enforcement efforts of the Justice Department would not constitute a violation of Title VII" of the Civil Rights Act of 1964.

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
300 North Los Angeles Street
Los Angeles, California 90012

LOS 50/20

Gentlemen:

Reports from several sources are being received at this office alleging your employment of aliens not permitted to be employed in the United States. While the reliability of these reports are as yet unknown, our past experience supports their general authenticity. As part of this agency's law-enforcement responsibilities, unannounced visits of our officers to your establishment would be necessary to verify these complaints and apprehend the offending aliens. While every effort is made to minimize the resulting disturbance of your operation, of necessity, some must be anticipated from the sheer nature of our task.

This letter is to advise you of the information being received, to solicit your cooperation in terminating the employment of such aliens, and to offer the services and facilities of this agency in accomplishing this objective. Employers are permitted by law to inquire of their employees as to their right to be employed in the United States. Those claiming United States citizenship should present birth certificates evidencing birth in the United States or certificates of citizenship or naturalization. Those claiming to be noncitizens must present an Alien Registration Receipt Card (Form I-151, a blue-green laminated card bearing a photograph) or other documents issued by the Immigration and Naturalization Service authorizing employment or stating that "Employment Will Not Affect Immigration Status." The enclosed booklet, M-97, contains samples of the several documents issued to aliens by this agency. Upon your request, one of our officers will resolve any doubtful case either at your place of business or at this office, as you prefer.

The employment of illegal aliens not only serves to encourage additional aliens to enter the United States illegally or to violate lawful status, but deprives United States citizens and lawful resident aliens of necessary employment. Over 20,000 aliens were apprehended last year in the Los Angeles area alone. The cost of their apprehension to the taxpayers in salaries of our enforcement officers, necessary equipment, the housing and feeding of these aliens and their transportation to their own country, and welfare costs of lawful residents and citizens unable to find employment, is staggering. These funds could more properly and effectively be spent

for much needed schools, hospitals, and low-cost homes for the economically disadvantaged. I am certain that as substantial taxpayers you share with me the desire to minimize the cost of Government and see that our tax dollars are expended in a direction to produce the best maximum return.

Please feel free to discuss this problem with me at my office (Room 8104) or by telephone (213 688-2780). Your assistance and cooperation toward achieving good government and effective law enforcement are sincerely appreciated.

Very truly yours,

George K. Rosenberg
District Director

Enclosure

Subcommittee Inquiry

25. Please submit the following information, for each of the past five years, by geographical area:
    a. the number of smugglers of illegal entrants apprehended?
    b. the number of convictions secured?
    c. the kinds of sentences handed out?
    d. What additional legislation or enforcement resources are needed to further control these practices?

Response

a. (apprehensions)

	1969	1968	1967	1966	1965
	2,048	1,210	1,219	959	525
Northeast Region	119	72	46	41	54
Southeast Region	20	4	8	28	3
Northwest Region	10	6	10	13	8
Southwest Region	1,899	1,128	1,155	877	460

b. (convictions)

	563	395	322	371	177
Northeast Region	3	3	2	5	4
Southeast Region	3	-	6	4	4
Northwest Region	41	41	9	5	8
Southwest Region	516	351	305	357	161

c. (sentences) *

Months	7,447	3,357	2,395	3,286	1,738
Fines	$43,000	$31,500	$13,150	$18,850	$10,550

Northeast Region					
Months	9	30	24	54	87
Fines	-	-	-	$3,000	$750
Southeast Region					
Months	8	-	96	30	66
Fines	$500	-	-	$2,500	$500
Northwest Region					
Months	580	246	84	12	22
Fines	-	$100	$250	$1,000	$100
Southwest Region					
Months	6,850	3,081	2,191	3,190	1,563
Fines	$42,500	$31,400	$12,900	$12,350	$9,200

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* Prior to January, 1969, the Service did not collect statistics as to the portion of sentences which were suspended. A review of the sentences imposed in the Southwest Region during the first six months of Fiscal Year 1969 (July 1968 to Jan. 1, 1969) shows that of the 2,220 months sentences given in 244 cases, 1806 months were suspended. The average sentences actually imposed was 1.7 months. During the period Jan. 1, 1969 through March 31, 1969, an aggregate of 2,524 months was imposed in 117 such cases, with 937 months suspended. The average sentence actually imposed was 13.6 months. The increased average during the latter period was attributable to the sentences in two aggravated cases: - one in San Antonio, Texas involving a smuggling operation in which three aliens died of suffocation in a closed van and the three defendants received a total of 43 years actual sentence; and the other in Southern California, where the defendant received a total of 45 years actual sentence.

During the period April, 1969 through June 30, 1969, the aggregate sentences totaled 2,106 months, and were imposed in 155 cases, with 1,812 months suspended. The average sentence actually imposed again dropped to 1.9 months.

d. The present statute directed against aliens smugglers is section 274 of the Immigration and Nationality Act, 8 U.S.C. 1324, which prescribes criminal penalties for smuggling, harboring, transporting or inducing illegal entrants. This is a comprehensive statute, which is utilized to attack those engaged in smuggling aliens into the United States. It is an effective tool to accomplish this purpose, and in our view no additional legislation to penalize such smuggling is needed.

Subcommittee Inquiry

26. During Subcommittee hearings on May 21 and 22, 1969, a number of questions were raised regarding the lack of a computer system for recording the movements of aliens across land borders. During the hearings, Senators and their counsel spoke of various systems used in roughly comparable situations, ranging from the ticket punching techniques of commuter railroads, to the airline seat reservation system.

a. Does the Service now have the authority, under law, to implement such a computer technique or system?

b. How much would such a system cost?

c. Has the Service requested the needed funds from the Bureau of the Budget?

d. Wouldn't such a system (if it dealt with both border crossing card holders, and green card holders, and used an electronically activated card) substantially improve the Service's control over the movements of non-resident, non-citizens?

e. Wouldn't such cards, particularly if tied to a thumb print system, be harder to forge than the current plethora of documents used by border crossers?

Response

a. Section 103(a) of the Immigration and Nationality Act, 8 U.S.C. 1103(a), confers on the Attorney General broad powers in administering and enforcing the immigration laws. In our view this grant of authority is sufficiently expansive to authorize the adoption of a computer technique or system. Procurement authority is subject to the normal Congressional and Executive Branch clearances.

b. System costs vary in proportion to the complexity of the system to be implemented, and the costs are not confined to computer hardware. A system that contemplates the capture of data relating to the entry and departure of aliens across land borders also entails the cost of issuing machine readable documents, expansion of existing border and airport facilities to permit the orderly flow of traffic through departure checks, and additional personnel needed to man the departure lanes. The combined costs for a system would be approximately $18,000,000.

c. No.

d. Such a system would identify cards as valid or questionable and could thus reduce the number of admissions by persons not entitled to entry with the cards presented. It would also give a more accurate accounting of admissions and departures of aliens across the land borders.

e. A thumb print on a document could be of value in a questionable case, if tied to a fingerprint system, to identify the rightful holder of the card. However, there is no machine in production, at the present time, that has the ability to compare fingerprints automatically at the speeds required to operate a border crossing system.

Subcommittee Inquiry

27. What is the Service's policy on the acceptance of baptismal certificates as proof of citizenship of commuting citizens?

a. Are such certificates still acceptable at the Hidalgo bridge?

b. Is it true that over the past five years, the certificates were accepted at some parts (sic), but not others?

Response

a. Yes. As indicated in the response to question 1.a., a baptismal record, in possession of the rightful holder, is deemed prima facie evidence of United States citizenship.

b. There is no basis for refusing to consider valid baptismal certificates, showing birth in the United States, if presented by the rightful holder in support of claimed United States citizenship. Any variation from this procedure would have been contrary to Service policy. Where fraud is suspected, the certificates are lifted by the Service to facilitate necessary interrogation, investigation, and indicated action.

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Subcommittee Inquiry

28. What is the process by which illegals apprehended by the Service are escorted back to Mexico?

a. How many are simply transported across the border?

b. How many are taken into the interior of Mexico?

c. Were the charter flights from Port Isabel to Central Mexico abandoned at any time in recent years? If so, please explain.

Response

Following apprehension in the interior of the United States, illegal aliens are transported by Service transport aircraft, Service bus, and chartered bus to Service-operated staging areas - El Centro, California; El Paso, Texas; Port Isabel, Texas - for onward movement to Mexico. Women and children illegally in the United States usually are found near the border and are permitted to return to Mexico voluntarily.

a. During calendar year 1969, about 55,250 Mexican residents were granted voluntary departure to adjacent Mexican ports of entry. These were aliens who have their residence on or in close proximity to the border. Included in this group were 23,000 women and children and a substantial number who were aged and infirm.

b. 129,257 illegal aliens were removed to the interior of Mexico during calendar year 1969.

c. The charter flights from Port Isabel to Central Mexico were discontinued in February 1969. The flights were replaced by a buslift. The buslift permits the Service to move the aliens to the same general area in Mexico at lower cost.

Subcommittee Inquiry

29. With regard to Section 212(a)(14) labor certification provisions of the Immigration and Nationality Act:

a. Do the provisions requiring certification of employment apply to all aliens who seek legal entry as permanent residents and whose entry is based on employment providing their financial responsibility? Please explain.

b. Under what circumstances must a commuter show that he has permanent employment? What definition does the Service use for permanent employment?

c. Which aliens are exempt from the provision of Section 212(a)(14)?

d. Has the State Department, or the Service, compiled statistics on the number of aliens admitted for permanent residence during each of the last three years who were exempt from the provisions of 212(a)(14)? If so, please provide.

e. How is the exemption established? Please outline the procedure.

f. What instructions have been issued to those officers granting the exemption, particularly as to sufficiency of proof in establishing preference by citizenship of a relative who claims birth in the United States?

Response

a. No. By its specific terms, section 212(a)(14) is made applicable only to those immigrants who are (a) non-preference immigrants as described in section 203(a)(8) of the Act; (b) immigrants who have been granted an occupational preference under section 203(a)(3) or (6); and (c) aliens classified as special immigrants under section 101(a)(27)(A) by reason of birth in an independent

No. 29.a (continued)

Western Hemisphere country or the Canal Zone, and their accompanying or following to join spouses and children. An exemption from the certification requirement is prescribed for any Western Hemisphere special immigrant who is the parent, spouse or child of a citizen or lawful permanent resident of the United States. Under the explicit language of the statute, returning lawful residents, designated as special immigrants under section 101(a)(27)(B), are not subject to the labor certification provisions of section 212(a)(14).

b. There is no requirement that a commuter's employment be permanent. However, he must have reasonably regular and stable employment in the United States. In Matter of Bailey, 11 I&N Dec. 466, the Board of Immigration Appeals, whose decisions are binding on the Service, held that the regularity and frequency of a commuter's temporary employment in the United States could be taken into account in determining whether his employment was stable. The Board found that an alien could be admissible as a returning resident commuter if his employment in this country was reasonably regular and stable, even though such employment is only part-time, is self-employment, is intermittent, or does not require daily entries.

c. Since section 212(a)(14) by its own terms is made applicable only to certain classes of immigrants, it is not applicable to the following classes of aliens:

(1) Nonimmigrants

(2) Western Hemisphere special immigrants who are the parents, spouses or children of citizens or of lawful permanent residents of the United States

(3) special immigrants described in section 101 (a)(27) (B), (C), (D) and (E) (returning lawful residents, former citizens, ministers, employees and former employess of U.S.)

(4) preference immigrants (on basis of relationship to citizens or residents) under section 203(a)(1), (2),(4), (5)

(5) conditional entrants under section 203(a)(7) (refugees)

(6) immediate relatives of United States citizens under section 201(b)

In addition, by regulation (8 CFR 212.8(b) and 22 CFR 42.91 (a)(14)(ii)), the following classes of persons are declared to be exempt from the labor certification requirement:

(1) An alien who establishes he does not intend to seek employment in the United States,

(2) A member of the Armed Forces of the United States,

(3) A spouse or child accompanying or following to join his spouse or parent who either has a labor certification or does not require such certification,

(4) A female alien who intends to marry a citizen or alien lawful permanent resident of the United States, who establishes that she does not intend to seek employment in the United States and whose fiance has guaranteed her support,

(5) An alien who will engage in a commercial or agricultural enterprise in which he had invested or is actively in the process of investing a substantial amount of capital,

(6) An alien who establishes satisfactorily that he has been accepted by an institution of learning in the United States, that he will be pursuing a full course of study for at least two full consecutive years, and that he has sufficient financial resources to support himself and will not seek employment during that period.

d.

Year ended June 30:	1967	1968	1969
Immigrants admitted:	361,972	454,448	358,579
Labor certificates issued:	93,324 1/	141,827 1/	102,913 1/
Immigrants exempt from labor certification requirement:	268,648	312,621	255,666

1/ SOURCE: Table A-1; Immigrant Worker Certification Program, prepared by the Manpower Administration, U.S. Department of Labor, Fiscal Years 1967, 1968, and 1969.

Data in Table A-1 includes alien workers precertified for permanent employment by the Department of Labor and processed by the Immigration and Naturalization Service and the U.S. Consular Office on the basis of schedules promulgated by the Department of Labor.

NOTE: Usage of the labor certification document will not necessarily fall in the same year as that of immigrant admission because visa numbers may not be immediately available to visa applicants.

e. An immigrant visa is not issued before the applicant has been issued a labor certification or establishes to the satisfaction of the issuing consular officer that he is exempt from the labor certification requirement. Visa issuance is a function of consular officers of the Department of State, and the Immigration and Naturalization

Service is not involved in the case of a Mexican native claiming exemption from the labor certification requirement in connection with an application for an immigrant visa, with one exception. That exception is when the alien claims to be an "immediate relative" of a United States citizen (spouse or child of a United States citizen, or parent of an adult United States citizen). In that case, the citizen is required to file a visa petition with the Service to classify the alien as an "immediate relative" and thereby exempt the alien from the numerical limitation of 120,000 per annum applicable to Western Hemisphere immigrants. Documentary evidence of the claimed relationship must be submitted in support of such a petition. The approval of the petition merely serves to classify the alien beneficiary as an "immediate relative". However, since parents, spouses and children of United States citizens are also exempt from the labor certification requirement applicable to Western Hemisphere natives, consular officers may accept the approval of the petition as evidence of the alien beneficiary's exemption from the certification requirement on the basis of his relationship. In other cases the consular officer presumably requires suitable evidence of a claimed exemption from that requirement.

With respect to Eastern Hemisphere natives, Service approval of a visa petition to classify such an alien under the first, second, fourth or fifth preference, or as "an immediate relative," based upon specified relationships to citizens or lawful permanent residents of the United States, is accepted by the consul as evidence that section 212(a)(14) is not applicable. Before approving a visa petition for third or sixth preference (occupational preference), the Service ascertains that the labor certification requirement has been met. The approved petition is forwarded to the consular officer where the beneficiary will apply for his visa.

f. Every immigration officer engaged in examining and adjudicating petitions or applications has received training and instruction in the immigration laws, and in applicable regulations and inspection techniques. These techniques include interrogation of the applicant for admission, and examination of the documents he presents, including the labor certification or evidence of exemption from the certification requirement.

Every alien who seeks to establish immediate relative classification or preference as a relative of a United

States citizen or alien lawful permanent resident of the United States, which classification would provide exemption from the labor certification, must have a visa petition filed on his behalf by the citizen or resident alien on Form I-130 (Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa). The instruction on that form must be carried out and the required documentation must be furnished with the petition. No petition may be approved until the examining officer is satisfied that the relationship exists.

Form I-130, including instructions regarding documentation, is attached.

Form approved.
Budget Bureau No. 43-R401.4.

PETITION TO CLASSIFY STATUS OF ALIEN RELATIVE FOR ISSUANCE OF IMMIGRANT VISA

Date filed	Fee stamp

TO THE SECRETARY OF STATE:

The petition was filed on _____

The petition is approved for status under section:

- ☐ 201 (b) SPOUSE, CHILD
- ☐ 203 (a) (2)
- ☐ 201 (b) PARENT
- ☐ 203 (a) (4)
- ☐ 203 (a) (1)
- ☐ 203 (a) (5)

DATE OF ACTION
DD

DISTRICT

Remarks

(PETITIONER IS NOT TO WRITE ABOVE THIS LINE)

1. Petition is hereby made to classify the status of the alien beneficiary for issuance of an immigrant visa as: *(Check one)*
   - ☐ The spouse, child (regardless of age), parent, brother, or sister of a United States citizen.
   - ☐ The spouse or unmarried child (regardless of age) of an alien lawfully admitted to the United States for permanent residence.

Block I. — Information About Alien Beneficiary

2. Name (Last, in CAPS) (First) (Middle)

3. Do Not Write in This Space

4. Relationship of beneficiary to petitioner

5. Other names used; Married woman give maiden name

6. Is beneficiary related to you by adoption?

7. Place of birth (Country)

8. Date of birth (Month, day, year)

9. Beneficiary's marital status: ☐ Married ☐ Widowed ☐ Divorced ☐ Single

10. *Petitioner's* name (Last in CAPS) (First) (Middle)

11. Has this beneficiary ever been in the U.S.? ☐ Yes ☐ No

12. Name of beneficiary's spouse, if married, and date and country of birth (Omit this item if petition is for your spouse)

13. Names, birthdates and countries of birth of beneficiary's children, if any

14. Full address of beneficiary's spouse and children, if any (Omit this item if petition is for your spouse)

15. If this petition is for your spouse or child, give the following:
    a. Date and place of your present marriage b. Number of your prior marriages c. Number of prior marriages of spouse

    d. Last address at which you and your spouse resided together — From — To
    (Town or city) (State or Province) (Country) (Apt. No.) (Number and street) (Month) (Year) (Month) (Year)

16. If this petition is for a child, *(a)* Is the child married? _____ *(b)* Is the child your adopted child? _____ If so, give the names, dates, and places of birth of all other children adopted by you. If none, so state

17. If this petition is for a brother or sister, are both your parents the same as the alien's parents? _____ If not, submit a separate statement giving full details as to parentage, dates of marriage of parents, and the number of previous marriages of each parent.

18. If separate petitions are also being submitted for other relatives, give names of each and relationship to petitioner

19. Have you ever filed a petition for this alien before? _____ If so, give place and date of filing and result:

Block I.— Information About Alien Beneficiary (Continued)

20. Address in the United States where beneficiary will reside (City) (State)

21. Address at which beneficiary is presently residing (Apt. No.) (Number and street) (Town or city) (Province or State) (Zip Code, if in U.S.)

22. If beneficiary is in the United States, give the following information concerning beneficiary:
a. He last arrived in the U.S. on (Month) (Day) (Year) b. He last arrived in U.S. as (Visitor, student, exchange alien, crewman, stowaway, etc.)

c. Show date beneficiary's stay expired or will expire as shown on his Form I-94 or I-95;

d. Name and address of present employer Date alien began this employment

23. Check the appropriate box below and furnish the information required for the box checked:

☐ Beneficiary will apply for a visa abroad at the American Consulate in _____ (City in foreign country) (Foreign country)

☐ Beneficiary is in the United States and will apply for adjustment of status to that of a lawful permanent resident in the Office of the Immigration and Naturalization Service at _____ (City) _____ (State)

If the application for adjustment of status is denied the beneficiary will apply for a visa abroad at the American Consulate in

_____ (City in Foreign Country) _____ (Foreign Country)

Block II. — Information About Petitioner

24 My name is (Last) (First) (Middle) 25. If you are a married woman, give your maiden name

26. I reside in the United States at (Apt. No.) (Number and street) (Town or city) (State) (ZIP Code)

27. Address abroad (if any) (Number and street) (City or town) (Province) (Country)

28. I was born: (Month) (Day) (Year) In: (City or town) (State or Province) (Country)

29. If you are a citizen of the United States, give the following:
a. Citizenship was acquired: (Check one)
☐ through birth in the U.S. ☐ through parents
☐ through naturalization ☐ through marriage
(1) If acquired through naturalization, give name under which naturalized, number of naturalization certificate and date and place of naturalization: _____
(2) If acquired through parentage or marriage, have you obtained a certificate of citizenship in your own name based on such acquisition? _____ (a) If so, give number of certificate and date and place of issuance:

(b) If not, submit evidence of citizenship in accordance with Instruction 3a.(2).
b. Have you or any person through whom you claim citizenship ever lost United States citizenship? _____
If so, attach detailed explanation on separate sheet.

30. If you are a lawful permanent resident alien of the United States, give the following:
a. Alien Registration Number: A _____ b. Date, place, and means of admission for lawful permanent residence _____
c. Have you ever lost status as a lawful permanent resident alien? _____ If so, explain:

(If you are married to a citizen of the United States, read instruction 1b carefully)

Block III. — Oath or Affirmation of Petitioner

I swear (affirm) that I know the contents of this petition signed by me and that the statements herein are true and correct.

Signature of petitioner (See Instruction No. 5) _____

Subscribed and sworn to (affirmed) before me this _____ day of _____, A.D. 19_____, at _____

(SEAL) My commission expires _____ _____ (Signature of officer administering oath) (Title)

Block IV. — Signature of Person Preparing Form, if Other Than Petitioner

I declare that this document was prepared by me at the request of the petitioner and is based on all information of which I have any knowledge.

_____ (Signature) _____ (Address) _____ (Date)

Name (Last, in CAPS) (First) (Middle)	Alien Registration Number
Other names used; Married woman give maiden name	SNDX Code
Place of birth (Country)	Date of birth (Month, day, year)
Petitioner's name (Last in CAPS) (First) (Middle)	

DATE AND ACTION ON VP	SECTION	DATE PETITION FILED
DATE OF ACTION DD DISTRICT	☐ 201 (b) (spouse child) ☐ 201 (b) (Parent) ☐ 203 (a) (1) ☐ 203 (a) (2) ☐ 203 (a) (4) ☐ 203 (a) (5)	

Relative Petition Card
Form I-130-A
(Rev. 10-15-69)

Sent to Consul at:

(PLEASE TEAR OFF HERE BEFORE SUBMITTING PETITION)

INSTRUCTIONS

READ INSTRUCTIONS CAREFULLY. FEE WILL NOT BE REFUNDED.

Not all of these instructions relate to the type of case which concerns you. Please read carefully those which do relate. Failure to follow instructions may require return of your petition and delay final action.

1. **Eligibility.** A petition may be filed by a citizen of the United States or a lawful permanent resident thereof to classify the status of specified alien relatives as follows:

   a. *By a citizen of the United States:* Except as noted in paragraph 2, a citizen of the United States may submit a petition on behalf of a spouse, child (regardless of age), parent (if the citizen is at least 21 years of age), brother or sister.

   b. *By a lawful permanent resident alien:* Except as noted in paragraph 2, an alien lawfully admitted to the United States for permanent residence may submit a petition on behalf of a spouse or an unmarried child regardless of age. However, if a lawful permanent resident alien is married to a United States citizen and wishes to petition for an unmarried child, such alien should consult the nearest office of the Immigration and Naturalization Service for advice as to whether it would be preferable, *or necessary*, for the United States citizen spouse to submit the petition instead.

   (IMPORTANT: Except as noted in the next sentence, petitions by United States citizens or lawful permanent residents should not be submitted for alien relatives born in any independent foreign country of the Western Hemisphere or in the Panama Canal Zone. However, a citizen of the United States must file a petition on behalf of his parent (if the citizen is at least 21 years of age), or on behalf of his spouse or unmarried minor child, even though such parent, spouse or child was born in an independent foreign country of the Western Hemisphere or in the Panama Canal Zone.)

2. **Petitions which cannot be approved.** Approval cannot be given to petitions on behalf of —

   a. A parent, unless the United States citizen petitioner is at least 21 years of age.

   b. An adoptive parent, unless the relationship to the United States citizen petitioner exists by virtue of an adoption which took place while the child was under the age of 14, and the child has thereafter been in the legal custody of, and has resided with, the adopting parent or parents for at least 2 years.

   c. A stepparent, unless the marriage creating the status of stepparent occurred before the citizen stepchild reached the age of 18 years.

   d. An adopted child, unless the child was adopted while under the age of 14 and has thereafter been in the legal custody of, and has resided with, the adopting parent or parents for at least 2 years. The same petitioner may not petition for more than two such children unless necessary to prevent separation of brothers and sisters.

   e. A stepchild, unless the child was under the age of 18 years at the time the marriage creating the status of stepchild occurred.

   f. A wife or husband by reason of any marriage ceremony where the contracting parties thereto were not physically present in the presence of each other, unless the marriage shall have been consummated.

   g. A prospective wife or husband.

   h. A grandparent, grandchild, nephew, niece, uncle, aunt, cousin or in-law.

3. **Supporting documents.** The following documents must be submitted with the petition.

   a. To prove United States citizenship of petitioner (where petition is for relative of a citizen).

   (1) If you are a citizen by reason of birth in the United States, submit your birth certificate. If your birth certificate is unobtainable, see "Secondary Evidence" below for submission of document in place of birth certificate.

   (2) If you were born outside the United States and became a citizen through the naturalization or citizenship of a parent or husband, and have not been issued a certificate of citizenship in your own name, submit evidence of the citizenship and marriage of such parent or husband, as well as termination of any prior marriages. Also, if you claim citizenship through a parent, submit your birth certificate and a separate statement showing the date, port, and means of all your arrivals and departures into and out of the United States. (Do not make or submit a photostat of a certificate of citizenship. See Instruction No. 8.)

   (3) If your naturalization occurred within 90 days immediately preceding the filing of this petition, or if it occurred prior to September 27, 1906, the naturalization certificate must accompany the petition. Do not make or submit a photostat of such certificate (see Instruction No. 8).

   b. To prove family relationship between petitioner and beneficiary.

   (1) If petition is submitted on behalf of a wife or husband, it must be accompanied by a certificate of marriage to the beneficiary and proof of legal termination of all previous marriages of both wife and husband.

   (2) If a petition is submitted by a mother on behalf of a child (regardless of age) the birth certificate of the child showing the name of the mother must accompany the petition. If petition is submitted by a father or stepparent on behalf of a child (regardless of age) certificate of marriage of the parents, proof of termination of their prior marriages, and birth certificate of the child must accompany the petition.

   (3) If petition is submitted on behalf of a brother or sister, your own birth certificate and the birth certificate of the beneficiary, showing a common mother, must accompany the petition. If the petition is on behalf of a brother or sister having a common father and different mothers, marriage certificate of your parents, and proof of termination of their prior marriages must accompany the petition.

   (4) If petition is submitted in behalf of a mother, your own birth certificate showing the name of your mother must accompany the petition. If petition is submitted on behalf of a father or stepparent your own birth certificate and marriage certificate of your parents must accompany the petition, as well as proof of termination of prior marriages of your parents.

   (5) If either the petitioner or the beneficiary is a married woman, marriage certificate(s) must accompany the petition. However, when the relationship between the petitioner and beneficiary is that of a mother and child (regardless of age), the mother's marriage certificate need not be submitted if the mother's present married name appears on the birth certificate of the child.

   (6) If the petitioner and the beneficiary are related to each other by adoption, a certified copy of the adoption decree must accompany the petition.

c. *Secondary evidence.*

If it is not possible to obtain any one of the required documents or records shown above, the following may be submitted for consideration:

(1) *Baptismal certificate.*—A certificate under the seal of the church where the baptism occurred, showing date and place of the child's birth, date of baptism, the names of the child's parents, and names of the godparents, if shown.

(2) *School record.*—A letter from the school authorities having jurisdiction over school attended (preferably the first school), showing the date of admission to the school, child's date of birth or age at that time, place of birth, and the names and places of birth of parents, if shown in the school records.

(3) *Census record.* — State or Federal census record showing the name(s) and place(s) of birth, and date(s) of birth or age (s) of the person(s) listed.

(4) *Affidavits.* — Notarized affidavits of two persons who were living at the time, and who have personal knowledge, of the event you are trying to prove — for example, the date and place of a birth, marriage, or death. The persons making the affidavits may be relatives and need not be citizens of the United States. Each affidavit should contain the following information regarding the person making the affidavit: His (Her) full name and address; date and place of birth; relationship to you, if any; full information concerning the event; and complete details concerning how he(she) acquired knowledge of the event.

d. *Documents and secondary evidence unavailable.*

If you are unable to submit required evidence of birth, death, marriage, divorce or adoption because the event took place in a foreign country which does not record such events, and secondary evidence is unavailable, attach a statement to this effect, setting forth therein the following: the date and place of each of your entries into the United States. Also attach any letters, photographs, remittances or similar documents which tend to support the claimed relationship and three passport type photographs of yourself.

e. *Documents previously submitted.*

If your birth abroad was registered with an American consul on Form FS-240, submit that form with this petition. If any required documents relating to your claim of citizenship were submitted to and retained by the American consul who issued FS-240 and you wish to use them in connection with this petition instead of submitting new documents, list such documents in an attachment to this petition and show the location of the consulate. If you wish to make similar use of required documents contained in any Immigration and Naturalization Service file, list them in an attachment to this petition and identify the file by name and number. Otherwise the documents required in support of this petition must be submitted.

f. *Documents in general.*

All supporting documents must be submitted in the original. If you desire to have the original returned to you, and if copies are by law permitted to be made, you may submit photostatic or typewritten copies. Photostatic copies unaccompanied by the original may be accepted if the copy bears a certification by an immigration or consular officer that the copy was compared with the original and found to be identical. A foreign document must be accompanied by a translation, certified by the translator as to the accuracy of the translation and as to his competency to translate. (Do not make a copy of a certificate of naturalization or citizenship.)

4. **Preparation of petition.** A separate petition for each beneficiary must be typewritten or printed legibly, with pen and ink (one copy only).

(If you need more space to answer fully any questions on this form, use a separate sheet, identify each answer with the number of the corresponding question, and date and sign each sheet.)

5. **Execution of petition.** You must sign the petition in your full, true, and correct name and affirm or make it under oath.

a. *In the United States* the petition may be sworn to or affirmed before an immigration officer without the payment of fee, or before a notary public or other officer authorized to administer oaths for general purposes, in which case the official seal or certificate of authority to administer oaths must be affixed.

b. *Outside the United States* the petition must be sworn to or affirmed before a United States immigration or consular officer.

c. *A member of the Armed Forces of the United States*, either in the United States or abroad, may swear to or affirm the petition before an officer of the Armed Forces authorized to perform notarial acts under Article 136, Uniform Code of Military Justice His wife or other dependent, *abroad only*, may swear to or affirm the petition in like manner.

6. **Submission of petition.** If you are residing in the United States, send the completed petition to the office of the Immigration and Naturalization Service having jurisdiction over your place of residence. If you are residing outside the United States consult the nearest American consulate as to the foreign office of this Service designated to act on your petition. If you are a United States citizen petitioning for an immediate relative classification in behalf of your unmarried child, the petition must be submitted in sufficient time for action to be completed on the petition and for the child to obtain a visa and reach the United States before the date on which he will be 21 years of age.

7. **Fees.** A fee of $10, payable in United States currency, must accompany this petition. The fee is required for filing the petition and is not returnable regardless of the action taken. If you mail this petition, attach money order or check. DO NOT SEND CASH. Money order or check should be drawn on a United States bank to the order of Immigration and Naturalization Service, Department of Justice." If residing in Guam, draw remittance in favor of the "Treasurer, Guam." If residing in the Virgin Islands, draw remittance in favor of the "Commissioner of Finance of the Virgin Islands."

8. **Penalties.** Title 18, United States Code, section 1546, provides: "Whoever knowingly makes under oath any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statements, shall be fined not more than $2,000 or imprisoned not more than 5 years, or both."

Title 18, United States Code, section 1426(h), provides: "Whoever, without lawful authority, prints, photographs, makes or executes any print or impression in the likeness of a * * * certificate of naturalization or citizenship, or any part thereof, shall be fined not more than $5,000 or imprisoned not more than 5 years, or both."

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Subcommittee Inquiry

30. With regard to statistics compiled, if any, on fraudulent applications for preference status:

a. How many cases of such nature were investigated for each of the last three years?

b. What types of fraud have been uncovered?

c. How is the State Department and the Service meeting the problem of fraud?

Response

a. Service records are not maintained with a breakdown of the number of investigations involving fraudulent applications for preference status. The following figures show the total number of fraud investigations conducted in the United States during the fiscal years indicated.

Fiscal Year	Fraud Investigations Completed
1969	10,231
1968	6,641
1967	5,337

b. The new types of fraud developed after the 1965 amendment requiring labor certification of immigrants, are largely responsible for the record number of fraud investigations completed during Fiscal Year 1969. Various schemes evolved to acquire immediate relative status and thereby evade the labor certification requirements, e.g., "sham" marriages to United States citizens or resident aliens,

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use of counterfeit marriage and birth records, and false birth registrations in the United States of foreign born children whose parents are immigrant visa applicants. Other schemes involve actual connivance to obtain labor certifications by fraudulent applications and supporting documentation. Other frauds involved the preparation and submission of fraudulent visa petitions and other applications for Service benefits. These include applications for extension of temporary stay of nonimmigrant visitors, change of status from one category of nonimmigrant to another nonimmigrant status, and adjustment of status from a nonimmigrant status to that of a permanent resident.

c. Close liaison, both on a local and headquarters level, was established by the Service with the Departments of State and Labor for prompt exchange of pertinent information developed on frauds, so that a three-pronged offensive might be launched--to identify fraudulent applications, to initiate deportation proceedings, and to initiate criminal prosecutions.

Subcommittee Inquiry

31. With regard to the investigation of fraud:
    a. Who is in charge of investigation?
    b. How are the offices responsible for the investigations staffed?
    c. How many cases of fraud have been uncovered before a visa is issued during the past five years, and in 1960 and 1955?
    d. How many cases of fraud have been uncovered after the visa has been issued during the past five years, and in 1960 and 1955?
    e. What efforts are made to deter the continuation of the frauds?

Response

a. Under the executive direction of a regional commissioner, the 37 District Directors of this Service are in charge of investigations within their jurisdiction. In the 18 larger districts they are aided in the discharge of their responsibilities by Assistant District Directors for Investigations.

b. The attached list shows investigators on duty as of December 31, 1969, which shows how our various offices are staffed. Adjustments are made periodically to meet varying workloads.

c. & d. Service records are not maintained with separate categories for frauds uncovered before and after a visa is issued. The following figures show the number of fraud investigations conducted in the United States during the fiscal years indicated. Fraud investigations were not recorded separately prior to Fiscal Year 1956:

Fiscal Years	Fraud Investigations Completed
1969	10,231
1968	6,641
1967	5,337
1966	4,967
1965	5,233
1960	3,234
1956	3,182

e. The Service is constantly concerned with combatting frauds. Various programs have been initiated. Operating procedures, which include a vigorous criminal prosecution policy, were established and field offices have been directed to follow them closely. Close liaison is maintained with the Departments of State and Labor, locally and in Washington. Liaison is also maintained with State and local authorities at all levels.

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service

On Duty Force of Investigators - December 31, 1969

NORTHEAST REGION		SOUTHEAST REGION		NORTHWEST REGION		SOUTHWEST REGION	
*Burlington	5	*Richmond	4	*St. Paul	3	*San Pedro	4
**Boston	16	**Atlanta	4	**Chicago	54	**Denver	4
Providence	1	Memphis	2	Hammond	6	Salt Lake City	3
Springfield	1			Milwaukee	5		
		**Baltimore	9			**El Paso	11
**Buffalo	12			**Detroit	18	Albuquerque	1
Albany	3	**Cleveland	11			Marfa	1
Ogdensburg	1	Cincinnati	2	**Helena	2		
				Boise	1	**Honolulu	4
**Hartford	8	**Miami	22				
		Jacksonville	1	**Kansas City	4	**Los Angeles	83
**Newark	29	Tampa	2	St. Louis	3	Calexico	2
						San Diego	7
**New York	136	**New Orleans	5	**Omaha	3	San Luis Obispo	1
						San Ysidro	2
**Portland, Me.	2	**Philadelphia	14	**Portland, Ore.	4		
		Pittsburgh	4			**Phoenix	4
**St. Albans	4			**St. Paul	6	Nogales	1
		**San Juan	10			San Luis	2
		Christiansted	2	**Seattle	12	Tucson	2
		St. Thomas	2	Spokane	3		
						**Port Isabel	3
		**Washington	13			Brownsville	1
		Norfolk	7			Houston	5
		Wilmington	1				
						**San Antonio	16
						Dallas	6
						Del Rio	1
						Hidalgo	2
						Laredo	2
						**San Francisco	42
						Fresno	2
						Las Vegas	2
						Reno	1
						Sacramento	2

*Regional Office
**District Office

Subcommittee Inquiry

32. With regard to preference categories:

a. What are the advantages of the preference categories?
b. Of those admitted under the preference categories, how many have entered with offers of employment?
c. What is considered a sufficient offer of employment under the preference category?

Response

a. The preference categories are established within the numerical limitation for the Eastern Hemisphere. Their purpose is to give priority in the issuance of immigrant visas to applicants who have close family ties to United States citizens or resident aliens, and to those whose skills or services would be beneficial to this country.

b. See item 29d. Of the 102,913 immigrants who were issued labor certifications during fiscal year 1969, some were required to obtain job offers in order to obtain these certifications. Many others, including persons qualified as members of the professions or who were qualified in occupations on the Department of Labor's "Schedule C - Precertification List", were not required under regulations of that Department (29 CFR 60.3 (b) and (c)) to obtain job offers in connection with their applications for labor certifications. The total

number of immigrants who entered with labor certifications is not broken down to show whether the certifications were issued with or without a job offer.

c. Of the preference categories of immigrants described in section 203(a) of the Immigration and Nationality Act only the third and sixth preference categories are subject to the labor certification requirement. The third preference category (members of the professions and persons with exceptional ability in the sciences or arts) are able to obtain a labor certification without a job offer, under Department of Labor regulations. Except for aliens qualified in occupations on that Department's "Schedule C - Precertification List", sixth preference aliens generally must have a job offer before that Department will issue a certification. The Service takes no action on petitions to accord aliens third or sixth preference classification until the labor certification requirement, including submittal of a job offer to the Department of Labor, where required, has been met. Consequently, you may wish to direct this question to that Department.

Subcommittee Inquiry

33. With regard to offers of employment:
    a. What evidence, conditions, or requirements are required to establish the sufficiency of an offer of employment?
    b. Who makes the final determination on sufficiency requirements?
    c. What is considered the minimum offer, in order to qualify, for example, for a family of two, three, four, etc., up to ten? Are instructions as to sufficiency different for each immigration district, or each consular area? If so, why, and how are they different?
    d. If an offer of employment is suspected of being false, what action is taken? Is any information of this nature ever publicized, and if so, when was the last time? What were the circumstances?
    e. Have extensive frauds been uncovered in offers of employment? Who generally engages in such frauds? Give examples.
    f. If the fraud is uncovered after the visa is issued, what action is taken? What procedures apply? How many such frauds were uncovered during the past five years?
    g. How does a Consular office go about trying to prove that a work offer is fraudulent? What procedures are established to cope with this problem?
    h. Once a visa has been granted, does either the State Department or the Service conduct any investigations as a matter of course to determine how many offers of employment, both under certification, or under preference, are actually bona fide? Who is responsible for insuring compliance?
    i. If so, who conducts such investigations? How many Service personnel are used, for example, in the Los Angeles Immigration district, and how many in the San Antonio district? What instructions do they operate under?

Response

a. Offers of employment made in connection with visa issuance are considered under two sections of the law. The first, under section 212(a)(14) of the Act, 8 U.S.C. 1182(a)(14), is primarily determined by the Labor Department. The second,

relating to the "public charge" ground of inadmissibility under 212(a)(15), 8 U.S.C. 1182(a)(15), is primarily determined by the U.S. Consul. Consequently the Service defers to the Labor and State Departments with respect to parts a, b, c and g of this question.

d. The Labor Department has promulgated the following regulation in 29 CFR 60.5: "Validity. Certifications issued pursuant to this part are invalid if the representations upon which they are based are incorrect. They are applicable only to the positions as described on Form ES-575B or as defined in the applicable schedule."

Labor certifications presented to the Service with petitions or applications are carefully scrutinized. If found to have been issued on false claims with respect to the conditions of the job offer or the qualifications of the beneficiary, the certification may be declared invalid and the petition or application is denied on the basis that the required certification is lacking. Since July 4, 1967, in accordance with the Freedom of Information Act, the Service has made available in public reading rooms copies of unpublished decisions on various types of petitions and applications. Published decisions may be purchased from the Superintendent of Documents, United States Government Printing Office. Decisions are published

when it appears they may be of precedent value and serve as guidance to Service officers, aliens, attorneys and other interested persons.

Examples of decisions where the Service concluded that the petitioner would not employ the beneficiary in the manner set forth in the offer of employment on which the labor certification was based are Matter of Izdebska, 12 I. & N. Dec. 54 (1966), and Matter of Desi, 11 I. & N. Dec. 817 (1966). Petitions for sixth preference classification were denied in those cases.

Where it comes to Service attention that an alien entered the United States with the preconceived idea of not proceeding to the employment specified in the labor certification presented in support of the immigrant visa, the Service institutes expulsion proceedings on the charge that the alien was inadmissible at the time of entry. See Matter of Hernandez-Uriarte, 13 I. & N. Dec. _____ (I.D. 1956, 1969); Matter of Poulin, 13 I. & N. Dec. _____ (I.D. 1973, 1969).

e. Early in Calendar Year 1966, an increase was noted in the number of complaints from employers who had secured labor certifications for alien employees, particularly live-in domestics, that such employees either failed to appear for the certified positions or shortly after taking the positions departed therefrom and

took more lucrative jobs. Investigation disclosed that many of the aliens entered the United States as temporary visitors and then engaged in employmentas domestics, in violation of their status, while awaiting processing of applications for labor certifications and immigrant visas. Every effort is made to locate and remove such aliens from the United States as quickly as possible.

Investigation further disclosed widespread abuses in the obtaining of labor certifications. Many aliens, either alone or with assistance of a third party, obtained labor certifications and admission to the United States as immigrants ostensibly to take employment as live-in domestics when, in fact, they were entering to seek employment as sewing machine operators or unskilled factory workers. Some of the live-in domestic labor certifications (which contained numerous misrepresentations) were filed as a convenience to the aliens by relatives or friends who were financially unable to pay the required salaries and/or had no actual need for domestics.

f. If any fraud is uncovered, including a fraudulent offer of employment, after the visa is issued but prior to the time the applicant applies for admission as an immigrant at a United States port of entry, the consular offficer or the Secretary of State is authorized to revoke the visa pursuant to section 221(i) of the Immigration and Nationality Act, 8 U.S.C. 1201(i).

If the alien applies for admission at a United States port of entry in possession of an immigrant visa, and it appears the visa was fraudulently obtained, he would be referred to a Special Inquiry Officer pursuant to sections 235 and 236 of the Act, 8 U.S.C. 1225 and 1226, for a hearing on his admissibility, on the ground that the alien appeared to be inadmissible under sections 212(a)(14) and (19) of the Act, 8 U.S.C. 1182(a)(14) and (19). The latter sections deal with inadmissibility for lack of a required labor certification and for obtaining a visa by fraud or misrepresentation.

If an alien is admitted to the United States as an immigrant in possession of an immigrant visa, and it is later discovered that he was not eligible for admission at the time of entry because of inadmissibility on the aforementioned grounds, or any other grounds of inadmissibility, the Service may institute deportation proceedings on the charge that the alien is a member of the deportable class specified in section 241(a)(1) of the Act, 8 U.S.C. 1251(a)(1). The expulsion hearing is held before a Special Inquiry Officer in accordance with section 242 of the Act, 8 U.S.C. 1252.

The Service is unable to furnish statistics on the number of fraudulent offers of employment uncovered during the past five years.

h. On June 2, 1967 an active program against violators was initiated. Provision was made for the publication of precedent decisions involving labor certifications where an alien fails to engage, or only works briefly, in the labor field for which certified, and then moves on to a non-certified position. Field offices were directed to screen recently arrived or currently arriving sixth preference and other immigrant cases, particularly where the record indicates that an immigrant visa was issued on the basis of a live-in domestic labor certification, and to expedite the investigation of selected cases. Deportation proceedings against violators have been brought under section 241(a)(1) of the Immigration and Nationality Act, 8 U.S.C. 1251(a)(1).

As a result of this program, precedent decisions have been obtained from the Board of Immigration Appeals which have established clear-cut guidelines for all field offices to follow, thus insuring uniformity in Service efforts to combat violations of the labor certification requirement of section 212(a)(14) of the Act, as amended.

This screening process is continuing. Some offices detected a high incidence of fraud in cases of aliens from certain

Central and South American countries who obtained immigrant visas on representations that they were qualified dressmakers, one of the occupations included in the Schedule C--Precertification List, and therefore not required to obtain individual labor certifications under section 212(a)(14). In order to determine the extent of the fraudulent activity in this area, separate lists were compiled of all alien dressmakers coming from Ecuador, El Salvador and Costa Rica who were admitted as immigrants during the period January through June 1968. The lists were forwarded to the district offices for investigation. Due to the successful results reported, plans were formulated to furnish the Service field offices with similar lists involving other occupations. Lists of tailors and bakers who were admitted as immigrants during specified periods were also forwarded to the district offices of the Service for investigation on November 25, 1969.

The Department of Labor has primary responsibility for the investigation of frauds practiced in the obtaining of labor certifications. This Service has the responsibility to determine if aliens involved in such activities are amenable to exclusion or deportation. After conferences with the Department of Labor, this Service agreed to conduct investigations for the purpose of determining if fraud was involved

in the procurement of the labor certification. After investigation, if warranted, the facts are presented to the appropriate United States Attorney for consideration of prosecution of the parties involved for violations under 18 U.S.C. 1001. If fraud in obtaining the labor certification is not involved, cases involving possible failure of employers to comply with the terms of their contracts with the aliens are referred to the Department of Labor for such action as is deemed to be appropriate.

i. During fiscal year 1969, 14 investigators completed a total of 2,065 fraud investigations in the Los Angeles district, and 4 investigators completed a total of 284 fraud investigations in the San Antonio district. No separate statistical breakdown is maintained for the various types of investigations mentioned in the Subcommittee's inquiry; they are included in the total of 2,065 and 284 fraud investigations completed in the Los Angeles and San Antonio districts, respectively.

Fraud investigations and other investigations initiated by this Service are conducted for the purpose of establishing whether the alien involved is in the United States in violation of any provisions of the Immigration and Nationality Act and, where appropriate, to establish whether there has been a violation of the criminal statutes under the jurisdiction of this Service.

Subcommittee Inquiry

34. Is it the policy of the Service to ever determine whether there is either an oversupply or an undersupply of farm labor in the United States? If so, in the opinion of the Service, is there an oversupply, or is there an undersupply of farm labor in the United States?

Response

The Service usually is guided by the research and advice of the Department of Labor in determining the adequacy of the supply of farm labor in the United States.

Subcommittee Inquiry

35. Have many frauds been uncovered in regard to establishing preference by marriage to a citizen, or legal resident spouse? By the birth of a United States citizen child? If so, how many?

a. How are those cases handled? How many personnel are engaged in investigating this type of case?

b. How extensive (sic.) are these cases publicized? Is it fair to conclude that some problems along the border are traceable to permissive policy with regard to enforcement of regulations?

Response

Service records concerning fraud investigations do not particularize the information requested. See answer to questions 31c and d for total fraud investigations completed during the last five fiscal years.

a. See answers to questions 31b and 31c and d. Currently there are approximately 73 investigators assigned to all types of fraud investigations. The Service makes every effort to expeditiously conduct all fraud investigations. Particular emphasis is given to the identification and prosecution of third parties who aid the aliens in such activities. Many of the investigations disclosed criminal violations, including conspiracies, involving the aliens and other persons who for substantial fees assisted them in their efforts to circumvent the

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immigration laws. The principal criminal statutes violated are 18 U.S.C. 371 (conspiracy), 18 U.S.C. 911 (false claims to United States citizenship), 18 U.S.C. 1001 (false statements), and 18 U.S.C. 1546 (fraud).

b. The results of this prosecution policy are publicized in American newspapers and in the foreign language news media. We believe this publicity materially assists in the curtailment of these frauds. We are not aware of permissive policy in the enforcement of the regulation, and our answer to the second portion of this question is negative.

Subcommittee Inquiry

36. Does a commuter have the same standing as a bona fide legal resident to establish preference for a visa application?

Response

There are no preferences within the numerical limitation of 120,000 on the number of natives of independent Western Hemisphere countries (and their accompanying or following-to-join spouses and children) who may be issued immigrant visas in any one year.

Subcommittee Inquiry

37. Is there any way in which the Consular office or the Service can, under the present policies, prevent an already non-bona fide legal resident from establishing more non-bona fide legal residents? Are there any statistics kept of such cases?

Response

The concept of non-bona fide legal resident does not exist under the immigration laws. If the Subcommittee's question deals with alien commuters, the answer is that a commuter can confer that exemption from the labor certification to the same extent as a lawful permanent resident who maintains a physical presence in the United States. However, if the parent, spouse or child of a commuter continues to reside physically in Mexico after obtaining an immigrant visa and being admitted to the United States for permanent residence, such parent, spouse or child would be subject to the same disability as other commuters, losing lawful permanent resident status if unemployed in this country for more than six months except for circumstances beyond his control.

No relevant statistics are kept by the Service. However, when evidence of fraud is uncovered with respect to a lawful permanent resident, which may affect the eligibility for immigrant visas of other members of his family, it is the Service's practice to notify the Department of State.

Subcommittee Inquiry

38. Would the offer of employment of a grower, or business, which has been certified as being on strike under the 1967 regulation of the Secretary of Labor, to a preference applicant for a visa, be considered sufficient if the minimum wage is offered?

Response

Since this is a matter within the jurisdiction of the Department of Labor, you may wish to direct the question to that Department. In any such case where the Service receives a certification, the validity or propriety of which is in question, such certification is returned to the Department of Labor for further inquiry.

Subcommittee Inquiry

39. If his offer is not considered sufficient, and the applicant obtains an offer from someone not certified on strike, can such an applicant after admission, then go to the struck farm and work, alleging that he was not a commuter but a bona fide legal resident when he applied for and obtained work on the struck farm?

a. If such employment is not permissible, what has been done by the Service to insure that no violations have occurred?

b. What instructions have been given to insure that such cases do not occur? Has any publicity been given to this kind of situation? If so, where?

c. How many personnel in the Starr County, Texas, area were assigned to such investigations, if any?

d. In other words, what has the Immigration Service done, as positive action to (1) prevent violations in this respect; (2) implement actual enforcement?

e. At a district level, who has been given the responsibility to take positive enforcement action? What specific action has been taken? How many persons are actually engaged in such action?

f. If checks were made at struck farms, who made the checks for violations? How many checks were made in Starr County during 1968? How many checks were made in the Coachella Valley of California in 1968 and 1969?

g. When the checks were made, what was the procedure used? Was each worker checked individually and were employment records checked? Were the records of truckers under contract or paying piece rates also checked?

Response

As previously stated, the labor certification applies to the initial entry only. If such an entrant is admitted and then proceeds to a place of employment other than that

specified in his labor certification, an investigation is made in order to determine his intent at time of entry. If it is determined that such alien's intent at the time of his admission was to obtain work at a place of employment, whether struck or nonstruck, other than that specified in his labor certification, then deportation proceedings are instituted against him. If the question of intent at the time of entry is resolved in his favor, a lawful permanent resident is not restricted by law or regulation from accepting any employment of his choice. However, if such person acquires commuter status after his admission he becomes subject to 8 CFR 211.1(b)(1).

a. Immediately upon receipt of an announcemnt by the Secretary of Labor that a labor dispute exists, the ports of entry on the Mexican border are notified and directed to take the necessary steps to implement the regulation. Aliens applying for admission as resident aliens in possession of Forms I-151 entering to work are screened to determine whether they are entering in violation of the regulation. Holders of Form I-151 and residents of Mexico entering the United States to work are furnished lists of locations where it has been

certified that labor disputes exist. Announcements are posted at ports of entry advising of restrictions to accepting employment on farms where labor disputes exist. Border Patrol traffic checks and backup stations are also alerted to the labor dispute and begin checking holders of Form I-151 to determine if they are proceeding to employment in areas involved in the labor dispute.

b. Internal instructions have been issued to operating divisions within the Service. As stated above, aliens entering from Mexico to work are advised individually as to restrictions on accepting employment at struck farms, announcements are posted at ports of entry, holders of I-151 encountered in field and traffic checks are furnished lists of farms where labor disputes exist, and Service representatives have metwith growers associations and representatives of labor unions and explained the regulations and procedures in detail.

c. Following the announcement by the Secretary of Labor on July 10, 1967, that a labor dispute was in progress on six farms in Starr Country, Texas, Service officers at the ports of entry in the Lower Rio Grande Valley area carefully screened all aliens seeking admission as

returning residents with Forms I-151 to insure that none were entering for the purpose of accepting employment at the places where labor disputes existed or of continuing employment at such places which began after July 10. Any alien intercepted at the port who came within the purview of the regulation was refused admission; however, in all known instances such aliens arranged for employment at nonstruck farms and were thus admissible under the regulation. The struck farms have been checked periodically by the Border Patrol. The place of residence of each holder of a Form I-151 was verified, and in the case of commuters holding Forms I-151, payroll records were checked to determine the date on which employment commenced and to determine that employment had been continuous. Personnel assigned varied from time to time as the number of workers varied as the labor needs of the farms. The majority of the work was seasonal and varied considerably between seasonal activities.

d. In addition to actions outlined under c. above, the Border Patrol force has been augmented during periods of peak activity by details of additional officers. The on-duty force was increased in those areas of greatest activity and an investigative force was detailed into the most active areas to handle

investigative matters.

e. District Directors of the respective districts have the responsibility for examining aliens applying for admission to determine their admissibility and to conduct investigations of aliens when it is alleged the alien is in the United States in an illegal status. Chief Patrol Inspectors of the respective sectors of the Border Patrol are responsible for maintaining traffic checking points on roads leading from border areas to intercept illegal aliens and checking aliens employed on farms as to their right to be in the United States.

The entire inspection force at ports of entry is engaged in examining alien applicants for admission. In those areas where it has been certified that labor disputes exist the entire Border Patrol force is engaged in intercepting any illegal alien in transit or employed on a struck farm. The force necessary to investigate aliens allegedly in the United States illegally will vary considerably because of the fluctuation in seasonal agricultural activities. However, sufficient force is assigned such duties in order to keep inspections and investigations current.

f. Checks of struck farms were made by Patrol Inspectors and Service Investigators. During 1968, the six struck farms in Starr County were checked approximately 72 times or an average of each farm once a month. There is no record of the number of persons questioned; however, checks during the period January 25 to October 2, 1968, there were 208 workers questioned including 81 holders of I-151's.

In the Coachella Valley there were 10 farms checked 77 times during the periods June 19-20, 1968, and July 11-18, 1968. There were 544 persons questioned, including 271 holders of Form I-151. During this period there was a restraining order in effect from June 19, 1968, to July 11, 1968.

In calendar year 1969 the 10 farms were checked 136 times and there were 2,542 persons questioned, including 1,655 holders of Form I-151.

g. Struck farms were systematically checked by the Border Patrol. Every resident alien I-151 holder encountered was investigated to determine whether he was in violation of 8 CFR 211.1(b). A thorough and comprehensive

investigation was conducted on a priority basis, including verification of residence in the United States, if alleged, or in Mexico. Payroll records (including labor contractors) are checked, school records are checked if school children accompany the alien, and utility records, etc. are checked.

Subcommittee Inquiry

40. With regard to form I-186, Visitors' Passes, or the equivalent of said form:

a. How many have been issued to Mexican Nationals in each of the last ten years?
b. How many of such passes are outstanding at present?
c. How many of such passes were revoked in each of the past five years? For what reasons?
d. Why isn't the form I-186 issued for a specific term requiring periodic renewal?
e. Why aren't all visitors' dates of entry and departure stamped on a supplementary document, as is now required for visits outside the twenty-five mile border zone?
f. Is the form I-186 often used as an entry document by persons who subsequently return it to Mexico and proceed beyond the border as illegal entrants?
g. Isn't it true that it is presently impossible to match apprehended illegal entrants with persons who crossed the border using a form I-186, yet returned the card to Mexico prior to apprehension? If the answer is negative, please provide an explanation.

Response

a. Border Crossing Cards Issued in the Southwest Region: 1/

Years ended June 30, 1960-1969

Year	Total	Number by I & N Service	Number by Consular Offices 2/
Total	2,222,112	1,684,941	537,171
1960	127,579	127,579	
1961	125,800	125,800	
1962	135,560	135,560	
1963	145,194	145,194	
1964	163,372	163,372	
1965	179,065	179,065	
1966	260,570	186,311	74,259
1967	373,948	210,463	163,485
1968	357,394	206,116	151,278
1969	353,630	205,481	148,149

1/ Border Crossing Cards issued by nationality of aliens to whom issued not available.
2/ Consular Offices began issuing border crossing cards in Mexico in August 1965.

b. The Service estimates that as of the end of Fiscal Year 1969 there were in actual use 546,000 forms I-186. It arrived at this figure by subtracting from the number of forms I-186 issued since the beginning of the program the estimated attrition (deaths, disability, immigration, etc.), the reissuance of forms I-186, the denials and change of names, and cards voided for cause.

c. Forms I-186 voided:

1965	12,346
1966	24,281
1967	28,347
1968	29,247
1969	31,121

The reason for voiding these documents has not been a reportable requirement. However, the principal grounds for voidance are: violation of the conditions on which the card was issued, discovery after issuance of the existence of grounds of inadmissibility, and alteration and tampering with the card.

d. Until January 10, 1969, the regulations relating to border crossing cards provided limitation of validity to a four-year period from date of issuance. Effective January 10, 1969, the regulation was amended to provide validity of such cards until revoked or voided notwithstanding any expiration date which may appear thereon. This change was made because it was concluded that the cost of manpower, if manpower were available, required

to reissue cards in regular use, estimated to be in excess of one-half million, could not be justified by the anticipated minimal benefits to be derived from such a program.

e. The question suggests that dates of entry and departure are stamped on a supplementary document in the cases of all visitors who proceed outside the twenty-five mile border zone. No supplementary document (Form I-94, Arrival-Departure Record) showing the date of entry or departure was required for the 39,000,000 Canadian citizens and British residents of Canada crossing the border for temporary visits in this country. Similarly, over 89,000,000 nonimmigrant border crossers were admitted across the Mexican border without supplementary documents to show arrival and departure dates.

In view of the tremendous number of nonimmigrant border crossers, which is increasing with each year, the delays in inspection and the traffic backups at border ports if a supplementary document were required to be prepared and stamped for such aliens, can readily be foreseen. We do not believe the possibility that Mexican nonimmigrant border crossers encountered within the 25 mile zone, will remain beyond the 72-hour admission period is serious

enough to warrant the issuance of a supplementary document bearing the date of entry. In the cases of Mexican nonimmigrant border crossers who are admitted for more than 72 hours or to proceed beyond the 25 mile limit, the Service does issue a document (Form SW-434 or I-94) which indicates the date to which the alien is authorized to stay.

f. To some extent this is true. Form I-186 holders also occasionally mail their cards home in order to prevent their loss. In Service experience this practice has diminished since the change in regulations making the I-186 valid only within 25 miles of the border for less than 72 hours unless an additional permit (SW 434) is issued. The Service tries to determine the true means of entry for all aliens claiming entry without inspection. If it is determined that the alien entered with a border crossing card and he does not have the card in his possession when apprehended, efforts are made to recover the I-186 so that it can be voided.

g. It is not impossible to match apprehended illegal entrants with persons who crossed the border using Forms I-186. Applications for Forms I-186 are on file in the Central Office and records of apprehension are sent to the Central

Office to determine if an alien claiming entry without inspection had ever made an application for an I-186. This is based on the premise that the alien uses the same name and date and place of birth. This, of course, is not always the case; however, Service officers can very often determine the alien's true name by documents in his possession such as Mexican draft cards, letters, etc.

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Subcommittee Inquiry

41. If dates of entry and departure were required to be stamped on a document carried by all visitors, would the abuse of the visitors permit be minimized?

a. Would a separate form stamped with the date of entry to be returned to the inspector on exit, provide a better means of determining whether or not a bearer of the visitors permit had violated its terms previously at the time of an attempted reentry?

b. Could all information relating to violations be computerized so that on reentry a permit could be checked within a matter of minutes in the same way that banks computerize data pertaining to checking accounts?

c. Would this create an inordinate delay at the border? If the answer is affirmative, please explain giving particulars.

Response

a. Form I-94, Arrival-Departure Record, is required as a part of the manifest furnished for most vessel and aircraft passengers. It is endorsed at the port of entry to reflect the date, place, and period of admission and nonimmigrant classification.

Form I-94 is surrendered when the alien departs. However, departure control is not authorized except in time of war or declared natural emergency. Section 215, Immigration and Nationality Act, 8 U.S.C. 1185. Under present conditions and procedures, a departing alien ordinarily is not required to present himself or surrender his Form I-94 to an immigration officer. The alien who is issued a Form I-94 on arrival is informed that he is to surrender it upon

departure. But, because there is ordinarily no authority to exercise departure control, the Service has enlisted the aid of airlines, steamship lines, Canadian immigration officers, and bridge and tunnel operators to assist in retriving the Forms I-94 of departing aliens.

Form I-94 is not required for nonimmigrant border crossers who are Canadian citizens or British subjects residing in Canada, and who are consequently entitled to a waiver of visa requirement pursuant to 8 CFR 212.1(a). Neither is the form required for holders of Form I-186 admitted as visitors to the Southwest border states for not more than 15 days. 8 CFR 235.1(f).

The limited scope of the requirement for Form I-94 eliminates its use for the 38,953,525 nonimmigrant alien border crossers admitted at ports of entry on the Canadian border and the 89,123,180 nonimmigrant alien border crossers admitted at ports of entry on the Mexican border during fiscal year 1969. Such admissions are expected to increase steadily in the future.

Because of the volume of these border crossers and the space and manpower limitations at border ports of entry,

and to avoid crippling congestion at those ports, the Service believes it not feasible to require Forms I-94, or a similar document, in these cases. In addition, requiring such a document for these border crossers would result in a monumental amount of paper handling.

It is improbable that a check-out procedure would assist in arriving at a determination at the time of a subsequent application for entry that the applicant had violated the terms of admission as a visitor during previous visits.

b. Yes.

c. An inordinate delay in border clearance would be inevitable, particularly in the clearance of vehicles. The following examples illustrate the volume of traffic encountered at various border points. Thus, normal afternoon and evening hourly volume at the Paso del Norte Bridge, El Paso, including substantial nonimmigrant traffic, is in excess of 2,000 pedestrians and vehicular passengers. Volume of over 3,000 persons hourly is not unusual at that port of entry. The vehicular traffic at the Avenue of Americas inspection point at El Paso is about double that of the Paso del Norte Bridge on a normal Sunday. Traffic volume at San Ysidro has exceeded 9,000 persons in a single hour. During peak

periods at that port, volume of over 8,000 persons in hour is not unusual. Use of computers would certainly result in long delays at these and other border points.

Subcommittee Inquiry

42. Is it true that at this time holders of Form I-186 are not fingerprinted?

a. Would not fingerprinting bearers of the I-186 facilitate matching the fingerprints of apprehended illegal entrants with I-186 card holders for the purpose of revocation of the card?

b. Isn't it true that this might be undertaken by the Federal Bureau of Investigation as an incident to their national fingerprinting clearing house activities? If the answer is negative, please provide an explanation.

c. Please indicate in detail why a fingerprint is not obtained from visitors.

d. Does the Immigration Service presently intend to institute fingerprinting for the purpose of curtailing abuses of the I-186? If the answer is affirmative, when will such change be effective? If the answer is negative, state the reasons for not using the fingerprint identification.

Response

After enactment of the Alien Registration Act of 1940 applicants for immigrant and nonimmigrant visas were required to be fingerprinted at U.S. consular offices. Through the years many foreign governments protested this requirement, particularly insofar as it pertained to applicants for nonimmigrant visas. Congress responded to these protests by enacting section 8 of the Act of September 11, 1957, 71 Stat. 641. That statute authorized

the Secretary of State and the Attorney General, as a matter of discretion to waive the fingerprint requirement for nonimmigrant visa applicants who were nationals of countries which did not require fingerprinting of United States citizens visiting such countries temporarily. Pursuant to the authority contained in that section, the Secretary of State issued regulations waiving the fingerprint requirement for nonimmigrant visa applicants, 22 CFR 41.116(b).

For some time after the promulgation of those regulations, the Service continued to require fingerprinting of applicants for Mexican Nonimmigrant Border Crossing Cards. In 1965, in an effort to reduce the workload caused by the large number of applicants for visitors' visas at the U.S. consular posts in the interior of Mexico it was agreed by the Department of State and the Service that those consular posts could issue Forms I-186 instead of visitors' visas.

Furthermore, since the Forms I-186 were being issued in place of visitors' visas, and consular officers had not been requiring applicants for nonimmigrant visas to be fingerprinted, consular officers did not require fingerprinting of aliens who applied to them for issuance of Forms I-186. This resulted in the situation whereby an

applicant for a Form I-186 was not fingerprinted if he applied at a consulate, but was fingerprinted if he applied at a Service office.

In 1965 the Service initiated a survey to determine whether fingerprint checks of applicants for Form I-186 should be continued. The survey disclosed that in less than 1% of the cases was the check productive of any information not already in Service records. Moreover, the little new information which was obtained was rarely of such significance as to affect the determination of the applications. For example, in four random samplings made between October 1965 and January 1966, which included 13,000 referrals to the FBI during a period of 19 days, every one of the 374 FBI identifications reported contained information already reflected in Service records or of no consequence in the adjudication of the application.

The survey cast a doubt on the practical value served by such checks. The Service requested the views of the Internal Security Division of the Department of Justice as to the desirability or necessity for the checks. After consideration, that Division advised that it would

not object to their discontinuance, with the understanding that checks would be required in those instances where the Service officer suspected the alien applicant may have assumed another identity or otherwise concealed an arrest or immigration record.

In consideration of the views expressed by the Internal Security Division and the unproductiveness of these checks, the Service issued instructions to discontinue them except when, in the judgment of the adjudicating officer there is reason to believe the fingerprint check might be productive.

The Service has no plans to reinstitute the fingerprinting of Form I-186 applicants for the reasons indicated above.

It should be pointed out that there is usually no difficulty in identifying an apprehended alien if he is in possession of a Form I-186. However, even if Form I-186 holders were fingerprinted, and the fingerprints of an apprehended alien were identified through an FBI check with those of an I-186 holder, there is a very practical difficulty in physically voiding that Form if the apprehended alien does not have it in his possession.

Subcommittee Inquiry

43. With regard to illegal entrants:
    a. How many were apprehended by the Border Patrol in 1960, 1965, 1966, 1967, 1968, and 1969?
    b. How many illegal entrants were formally deported in each of the above listed years?
    c. How many illegal entrants were subjected to criminal prosecution in each of the above listed years?

Response

a. (apprehensions)

Fiscal Year		
	1960	14,134
	1965	29,713
	1966	53,179
	1967	68,883
	1968	95,159
	1969	138,729

b. (Deportations)

Fiscal Year		
	1960	2,940
	1965	4,881
	1966	3,615
	1967	3,947
	1968	3,777
	1969	4,983

c. (criminal prosecutions)

Fiscal Year		
	1960	520
	1965	266
	1966	468
	1967	459
	1968	488
	1969	1,177

Subcommittee Inquiry

44. State the policy of the Service and the Justice Department in detail with reference to waiver of prosecution, and waiver of deportation.

Response

The Service has no authority to waive prosecution for violation of any of the criminal provisions of the Immigration and Nationality Act. Responsibility for initiating and conducting prosecutions is reposed in the United States Attorneys, under the direction of the Criminal Division of the Department of Justice. The various United States Attorneys issue guidelines as to general or blanket waiver of prosecution for certain criminal violations and the Service abides by these waivers. The United States Attorneys are often influenced in the types of cases prosecuted by the attitudes of the United States District Courts. Past immigration records, family relationship to suspected violators, and various humanitarian aspects are factors considered by United States Attorneys in prosecution cases. Also taken into account are the large number of immigration violations, and the knowledge that the prosecution of all such violations would overburden the courts.

The largest number of cases falling under blanket waiver directions of the United States Attorneys involve illegal entries (8 U.S.C. 1325).

Generally such cases are not prosecuted unless there are repeated offenses, or where other aggravated factors are present.

Next in volume of cases under blanket waivers are violations of the alien registration provisions of the Immigration and Nationality Act, for which the United States Attorneys seldom authorize prosecution, in the absence of aggravated circumstances.

As a general rule, if an alien returns illegally to the United States after being granted voluntary departure, he is placed under formal deportation proceedings. If he is deported and returns, he is prosecuted under 8 U.S.C. 1326 for reentry after deportation, which is a felony.

Waiver of deportation can be effected through a number of remedies provided by statute, such as adjustment of status (Sec. 245, 8 U.S.C. 1255), registry (Sec. 249, 8 U.S.C. 1259), and suspension of deportation (Sec. 244, 8 U.S.C. 1254). Because of statutory limitations some of these remedies are not available to natives of adjacent countries. In addition, deportation may be withheld by the Attorney General if he finds the alien would be subject to persecution on account of race, religion, or political opinion and for such period of time as he deems necessary for such reason. (Sec. 243(h) of the Act, 8 U.S.C. 1253(h)).

Moreover, the Attorney General has the usual prosecutor's discretion to withhold or terminate deportation proceedings where the infraction was minor, or the consequences would be excessive, or where humanitarian considerations are present.

Probably the Subcommittee's inquiry is concerned more with voluntary departure, which would avert deportation.

Voluntary departure in lieu of deportation is generally granted aliens who were admitted as temporary visitors and later violate status either by remaining longer than permitted or by accepting employment. Voluntary departure is generally granted an illegal entrant who has entered the United States solely to accept employment or where his prior immigration history shows no aggravated immigration offenses. If such an alien reentered illegally after a recent grant of voluntary departure, then deportation proceedings usually are instituted. Taking into account the large volume of illegal entrants across the Mexican border, the Service policy is to grant voluntary departure in these cases. Some 161,000 Mexican aliens were apprehended in fiscal year 1969 after having entered the United States without inspection. It would have been physically impossible to conduct formal deportation proceedings for each such illegal entrant. Therefore, except in aggravated cases, voluntary departure is the only practicable and effective remedy to remove such illegal entrants.

In addition to the voluntary departure granted to natives of foreign contiguous territory, as indicated above, such relief is usually granted to any alien statutorily eligible therefor (1) whose application for extension of stay as a nonimmigrant is being denied; or (2) who has voluntarily surrendered himself to the Service; or (3) who presents a valid travel document and confirmed reservation for transportation out of the United States within 30 days; or (4) who is an F-1, F-2, J-1, or J-2 nonimmigrant and who has lost such status solely because of a private bill introduced in his behalf, or is a J-1 or J-2 nonimmigrant and who has lost such status solely because of the formal filing with the Service of an application for waiver of the two-year foreign-residence requirement; or (5) who is (i) the beneficiary of an approved third-preference petition or (ii) a native of an independent country of the Western Hemisphere or the Canal Zone who has the qualifications of a third-preference alien and has applied for an immigrant visa or (iii) the beneficiary of an approved sixth-preference petition who establishes that he can qualify for third preference, and who cannot obtain a visa solely because a visa number is unavailable, and his child or spouse, including a spouse who is or was a J nonimmigrant and is subject to the foreign-residence requirement; or (6) other than a native or citizen of foreign contiguous territory, who is

admissible to the United States as an immigrant, who has a priority date for an immigrant visa not more than 60 days later than the date shown in the latest Visa Office Bulletin, and who has applied for an immigrant visa at an American consulate which has accepted jurisdiction of the case; or (7) in whose case the district director has determined there are compelling factors warranting grant of voluntary departure.

Subcommittee Inquiry

45. State in detail the circumstances which give rise to a formal deportation proceeding, or a criminal prosecution.

Response

The following are examples of the most prevalent types of violations for which an alien becomes amenable to deportation:

(1) overstayed period of temporary admission;

(2) violated terms of temporary admission;

(3) effected surreptitious entry;

(4) reentered the U. S. without permission after having been deported;

(5) was guilty of misconduct in the U.S. involving criminal, immoral, narcotic or subversive activity;

(6) obtained visa or admission to U. S. by fraud or misrepresentations

(7) after entry was found to have been excludable at time of entry.

Although voluntary departure is granted to many of the aliens (see response to question No. 44), formal deportation proceedings are instituted where:

(1) an alien granted voluntary departure fails to depart;

(2) the circumstances indicate that an alien will not depart if granted voluntary departure, including aliens who are deemed to be likely to abscond if released from detention;

(3) an alien was previously granted voluntary departure and shortly thereafter reenters illegally;

(4) aliens of the criminal, immoral, narcotic and subversive classes and others, who are statutorily ineligible for voluntary departure under section 242(b), 8 U.S.C. 1252(b).

Possible violations of the criminal statutes under the jurisdiction of this Service are fully investigated to determine if the evidence developed establishes that a violation has occurred. If it is determined that there has been a criminal violation that does not fall within the blanket waiver provisions of the appropriate U. S. Attorney, and the statute of limitations has not tolled, the facts are presented for consideration of prosecution of the parties involved. The following are examples of the most prevalent criminal violations:

(1) Bringing in or harboring aliens (8 U.S.C. 1324)

(2) Entry of aliens illegally (8 U.S.C. 1325)

(3) Reentry of deported aliens (8 U.S.C. 1326)

(4) False or fraudulent statements or entries (18 U.S.C. 1001)

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(5) Fraud, misuse of visas and other documents (18 U.S.C. 1546)

(6) False representation as U. S. citizen (18 U.S.C. 911)

(7) Alien crewmen who remained longer (8 U.S.C. 1282(c))

Subcommittee Inquiry

46. Indicate the percentage of formal deportations and prosecutions to apprehensions during the period of Operation Wetback 1953, 1954 and 1955. Is it true that Operation Wetback provided an effective deterrent to subsequent illegal entry for a period of years?

Response

Years ended June 30, 1953, 1954 and 1955.

Aliens Apprehended . . .	2,229,266
Aliens Deported	61,824
Prosecutions	40,103

Percentage of persons apprehended who were deported or prosecuted was 4.6%

Operation Wetback, which was in effect between June 17, 1954 and January 1, 1955 was unquestionably a deterrent to subsequent illegal entries. The increase in Border Patrol personnel by some 400 positions in 1955 also was instrumental in stopping illegal entries.

Two major deterrents to illegal entries for the period after January 1, 1955 were:

(1) A workable bracero program for the importation of large numbers of agricultural workers under P.L. 78, 82nd Congress, as amended.

(2) An increase in the number of lawful immigrants from Mexico.

Subcommittee Inquiry

47. Indicate the number of apprehensions of illegal entrants, and the number of prosecutions and formal deportation proceedings arising out of those apprehensions in the San Antonio District, and in the Livermore District, in 1968? Indicate the reasons why the Justice Department did not resort to further use of formal procedures.

Response

NUMBER OF APPREHENSIONS OF ILLEGAL ENTRANTS
SAN ANTONIO AND SAN FRANCISCO DISTRICTS
YEAR ENDED JUNE 30, 1968*

Place	Number
San Antonio	16,890
Dallas	651
Hidalgo	4
Laredo	2
San Antonio	1,217
Del Rio Border Patrol	8,327
McAllen Border Patrol	2,943
Laredo Border Patrol	3,746
San Francisco	14,467
Fresno	54
Reno	130
Sacramento	55
San Francisco	1,523
Livermore Border Patrol	12,705

* Livermore Border Patrol Sector is under the San Francisco Office. The tables therefore cover San Antonio, and San Francisco Districts.

Number of prosecutions authorized by the United States Attorneys for the Entry of Aliens Illegally (8 U.S.C. 1325).

Fiscal Year 1968

San Antonio	170
San Francisco	1 (It showed that the San Francisco District does not include a land border, and the courts in that District therefore cannot entertain prosecutions for illegal crossings of the Mexican border.)

Number of formal deportations of aliens entering without inspection.

Fiscal Year 1968

San Antonio	524
San Francisco	232

The current policy of speedy apprehension and removal of aliens not entitled to reside and work in the United States developed over many years. The United States district courts have not looked with favor upon mass prosecutions in this type of case. See our response to question No. 44 for discussion of waivers of prosecution.

The Service has also at various periods required deportation hearings in many cases of illegal entries in an effort to develop a strong deterrent to reentries of deportable aliens. However, the formal deportation proceedings required an increase of ten days in the average number of days for each alien to be detained. This resulted in crowded detention facilities, crowded jails, prohibitive demands on manpower and sky-rocketing cost per case.

See our response to question No. 45 concerning formal deportation proceedings and criminal prosecutions.

Subcommittee Inquiry

48. Indicate specific plans if any to increase the number of criminal prosecutions and formal deportation proceedings utilizing the new federal magistrate. Reflect a schedule for implementation of such plans.

Response

Under the new statute, the federal magistrate's trial jurisdiction may be extended to misdemeanors punishable by imprisonment for not more than one year or a fine of not more than $1,000, or both, provided the accused waives trial in the district court. Most immigration offenses now provide for punishment in excess of one year. For example, 18 U.S.C. 1546 (falsification or misuse of entry documents) has a maximum punishment of five years; section 276 of the Immigration and Nationality Act, 8 U.S.C. 1325 (unlawful reentry after deportation) has a maximum of two years; 18 U.S.C. 911 (false claim to United States citizenship) has a maximum of three years; and section 274 of the Immigration and Nationality Act, 8 U.S.C. 1324 (smuggling or transporting unlawful entrants) has a maximum of five years. Among the frequent prosecutions, only section 275 of the Immigration and Nationality Act, 8 U.S.C. 1325, (unlawful entry) entails maximum punishment under one year. It provides for a maximum of six months and $500 fine for a first offense. For a subsequent commission of such offense, conviction is punished by imprisonment for not more than 2 years or by a fine of not more than $1,000, or both. Accordingly, only a first offender under section 275 of the Immigration and Nationality Act, 8 U.S.C. 1325, could presently be tried before a federal magistrate.

Thus far positions under the Federal Magistrates Act have been established in only 5 pilot jurisdictions: New Jersey, District of Columbia, Eastern Virginia, Kansas and Southern California. Adverting to the situation in the Southern District of California, which is of primary concern here, there is one full-time magistrate stationed at San Diego and one part-time magistrate at El Centro. Both of these magistrates were appointed on July 1, 1969. Since that date 283 immigration prosecutions were conducted before the magistrate in San Diego and 158 before the magistrate in El Centro. All of these prosecutions have been brought under section 275 of the Immigration and Nationality Act, 8 U.S.C. 1325.

As more federal magistrates are appointed and assigned duties by the United States District Courts, more prosecutions can be brought before them. However, the statutory jurisdictional limitations restrict the use of magistrates in immigration cases. Perhaps this difficulty might be overcome by a statute enlarging the jurisdiction of the federal magistrates. However, we do not recommend this approach until the statute has been more fully tested in operation.

Another course might be to seek legislation which would reduce maximum punishment of most, if not all, immigration violations to conform to the jurisdictional limitations of the magistrates. We do

not favor such a sweeping diminution of penalties which would require the prosecution of serious violations as minor offenses.

A different approach would involve only the amendment of section 275 of the Immigration and Nationality Act, 8 U.S.C. 1325, relating to unlawful entry, by eliminating the distinction between first and second offenders, by increasing the prescribed penalty to a maximum of one year imprisonment and $1,000 fine; and by including attempts to commit the prescribed crimes.

If this change were accomplished, many of the prosecutions presently brought in U. S. District Courts under 18 U.S.C. 1546, 8 U.S.C. 1326, 18 U.S.C. 911 and 8 U.S.C. 1324, could be brought before federal magistrates under 8 U.S.C. 1325, either because an illegal entry has occurred or because of an attempt to make an illegal entry or because of aiding and abetting the commission of such offense. The desirability of proposing such an amendment is presently being considered.

Subcommittee Inquiry

49. Does the Service have, in the opinion of counsel, the power to levy administrative fines against illegal entrants or persons who harbor or assist illegal entrants?

a. If the answer is negative, indicate from a legal standpoint the grounds underlying that opinion. If the answer is affirmative, indicate the circumstances under which the agency has the power to levy informal administrative fines.

b. Would such power be useful in deterring illegal entrants if monies in their possession were subject to partial confiscation to meet such fines?

Response

a. The answer is negative in the opinion of counsel. The Immigration and Nationality Act of 1952, 66 Stat. 163, is an organic law within which prescribes all of the powers under the immigration laws granted by Congress to the Attorney General. Section 103(a) of the Act, 8 U.S.C. 1103(a), contains the general grant of authority. In pertinent part it provides:

> He shall establish such regulations; prescribe such forms of bond, reports, entries, and other papers; issue such instructions; and perform such other acts as he deems necessary for carrying out his authority under the provisions of this Act.

Many sections of the Act authorize the Attorney General to levy fines administratively for specified violations

of law: Act, sections 231, 237, 243, 251, 254, 255, 256, 271, 272 and 273; 8 U.S.C. 1221, 1227, 1253, 1281, 1284, 1285, 1286, 1321, 1322 and 1323. Several of the foregoing sections authorize fines for bringing inadmissible aliens to the United States, but none is directed against illegal entrants or those harboring illegal entrants.

It seems clear from the structure of the Act that the legislative intent was to give to the Attorney General express authorization to impose fines in specific situations and to withhold from him the power to impose administrative fines in other situations of his own choosing. A power which has been withheld by Congress cannot be found to exist as an "incidental" or "necessary" power. Saxon v. Georgia Association of Independent Insurance Agents, Inc., 399 F.2d 1010 (C.A. 5, 1968). Penal statutes must be construed strictly, so that even if the Act should be deemed ambiguous with regard to the extent of power to impose fines, doubts would have to be resolved against implied authority to impose penalties. 2 Sutherland, Statutory Construction, 3rd ed., section 3303; United States v. Minker, 350 U.S. 179 (1956).

b. The power to impose administrative fines against illegal entrants would be useful as a deterrent. Service

officials advise that they have been seeking for years a sanction more universally applicable than early apprehension as a means of "taking the profit out" of the illegal entrant's enterprise. They advise that until 1968 they considered the feasibility of an administrative fine program, assuming that Congress would authorize it, but reached no conclusion, finding it difficult to resolve doubts whether the benefits of such a program would outweigh administrative complexities and costs as well as delays in expulsion. In particular they perceived the possibility of built-in legal difficulties, recognizing that it is one thing to impose a fine administratively and another to collect it legally against the will of an illegal alien without bringing him before a court or at least giving him the opportunity to sue to keep title to his money. The Service advised that in the end it was decided that more effective approach would be to try to take the fullest advantage of the Federal Magistrates Act of 1968 and to press for sentences including the imposition of fines for violations of criminal laws.

As indicated in our response to Question 48, consideration is being given to the desirability of proposing an amendment to section 275 of the Act, 8 U.S.C. 1325, by modifying the prescribed criminal penalties, so as to make the offense of unlawful entry triable before federal magistrates.

Subcommittee Inquiry

50. Would it not be possible to permit illegal entrants to sign a stipulation acknowledging violation of immigration laws as a condition to voluntary departure, to be used to expedite subsequent formal deportation or criminal prosecution in the event of apprehension subsequent to reentry?

a. If the answer to this question is negative, please specifically enumerate authority substantiating the negative response.

b. If the answer is affirmative, indicate why such practice or a similar practice is not now the policy of the Service.

Response

It is possible and it is the practice to permit an illegal entrant from Mexico to sign a written statement acknowledging violation of the immigration laws and requesting voluntary departure; however, such a statement is of limited use subsequent to reentry in formal deportation proceedings or a criminal prosecution.

Section 242(b) of the Act, 8 U.S.C. 1252(b), prescribes that in the discretion of the Attorney General an alien who admits belonging to a deportable class may be granted voluntary departure without the necessity of formal deportation proceedings. The Service routinely grants voluntary departure under this statute to deportable aliens whose cases are not aggravated. In the states near the Mexican border, a Spanish-speaking alien signs a

statement in Spanish acknowledging that he understands his right to a hearing concerning his remaining in the United States but that he admits that he is deportable and requests prompt voluntary departure. In addition, in virtually all deportation investigations it is customary to ask the subject for a voluntary written sworn statement.

A statement signed by the subject containing the admission that he is an alien who is in the United States in violation of the immigration laws has evidentiary value in a subsequent proceeding. However, the existence of such a statement does not relieve the authorities of proceeding formally nor does it preclude the alien from setting up any defense, including that of involuntariness in the execution of the statement. Moreover, as evidence of alienage in a criminal prosecution an admission made to a criminal investigator would probably be insufficient as to any essential element of the crime, unless corroborated. Smith v. United States, 348 U.S. 147 (1954); Calderon v. United States, 348 U.S. 160 (1954). And as far as the deportation process is concerned, even an alien who admits he has entered the United States illegally has a statutory and constitutional right to a formal deportation hearing which conforms with the Fifth Amendment's due process of law requirements. Section 242(b), Immigration and Nationality Act, 8 U.S.C. 1252(b). The Japanese Immigrant Case, 189 U.S. 86, 191 (1903); Sung v. McGrath, 339 U.S. 33 (1950).

Subcommittee Inquiry

51. Indicate the number of special hearing officers available in the Southwest Region for the purpose of processing formal deportation proceedings.

a. Indicate the number of deportation proceedings or other administrative hearings conducted by such special inquiry officers in 1960, 1965, 1966, 1967, 1968, and 1969.

b. Indicate the number of deportation proceedings for illegal entry conducted by special inquiry officers in the same years.

c. Indicate the increase in the staff of special inquiry officers during the previous three years.

Response

a. (Officers and hearings)

Officers	Years ended June 30,	Number
11	1960	5,146
11	1965	8,786
11	1966	6,859
10	1967	8,039
10	1968	8,241
10	1969	12,468

b. (Deportation proceedings for illegal entry)

Officers	Years ended June 30,	Number
10	1960	2,821
10	1965	4,896
10	1966	3,752
9	1967	4,465
9	1968	4,386
9	1969	7,164

c. See first column in a and b above.

Subcommittee Inquiry

52. Indicate the actual increase in funds allocated directly to the Border Patrol in each of 1960, 1965, 1966, 1967, 1968 and 1969.

a. Indicate the percentage of the budget of the Immigration Service allocated to the Border Patrol in each of the above years.

b. Indicate the average size of the Border Patrol on duty in the Southwest Region for each of the above years.

c. Indicate efforts on the part of the Justice Department or the Service to increase 1) the number of special hearing officers, and 2) the size of the Border Patrol in the Southwest Region in the past several years.

d. Indicate circumstances which have impeded the expansion of the Border Patrol and the special inquiry officers staff, if any.

Response

The actual increase in funds allocated to the Border Patrol is detailed by year as follows:

Fiscal Year	Amount
1960	$1,229,764
1965	1,037,455
1966	16,323
1967	587,631
1968	2,345,657
1969	761,714

a. The Border Patrol was allocated the following yearly percentages of the total Immigration and Naturalization budget:

Fiscal Year	Percentage
1960	29
1965	26
1966	25
1967	25
1968	25
1969	25

b. The average on-duty Border Patrol force by year and principal employee group follows:

Fiscal Year	Average total on-duty	Patrol Inspectors and Pilots	Supervisory and Misc. Officers	Clerical
1960	1,177	1,020	18	139
1965	1,139	975	13	151
1966	1,140	978	14	148
1967	1,227	1,059	14	154
1968	1,183	1,014	14	155
1969	1,228	1,062	13	153

c. 1) Neither the Justice Department nor the Service has requested an increase in the number of special hearing officers during the past several years.

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2) To preclude a budget request for additional positions, the Service began in fiscal year 1966, an analysis of every Border Patrol postiion on the Northern Border and the Gulf and Florida Coast to identify those that would produce greater enforcement effectiveness if reassigned to the Southwest Region. Although no additional Border Patrol positions were received in fiscal years 1966 through 1969, the Service increased the authorized force of the Southwest Region by 108 positions during the same period. The Congress allowed 115 Patrol Inspectors in the 1970 budget, of which 113 have been assigned to the Southwest Region. The 1971 budget, presently before the Congress, contains a request for 77 additional Border Patrol positions.

d. General economic conditions as related to the budget are the only significant factors impeding an expansion of the Border Patrol staff. Additional Border Patrol positions are needed in future budget years, and the Service will request these positions within the budget resources available.

U. S. DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY
WASHINGTON

SEP 23 1970

Honorable Walter F. Mondale
Chairman, Subcommittee on Migratory Labor
Committee on Labor and Public Welfare
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This is in response to your letter of August 27 enclosing a list of questions regarding the "green card" situation along the border between the United States and Mexico.

A recently completed study "The Border Crossers," which was carried out under a research grant of the Manpower Administration, presents the most up-to-date information on the "green card" commuters. This study answers, to the extent that it is possible, the questions posed by your constituent. Precise data on income, length of employment and the social costs of the green card system are not available.

I am enclosing a copy of the study referred to above. In addition, an article on the same subject which was published in the August 1970 Monthly Labor Review is also enclosed.

Sincerely,

J. D. Hodgson

Secretary of Labor

Enclosures

The impact of commuters on the Mexican-American border area

A study of the commuter system examines the problems attributed to "green carders" and explores some solutions

ANNA-STINA ERICSON

Approximately 70,000 persons cross the Mexican border daily to work in the United States. Of these, 20,000 are U.S. citizens living in Mexico; about 50,000 are Mexican immigrants who have valid U.S. immigration documents but who, for various reasons, continue to live in Mexico while they work in the United States. The majority of those who cross the border work in nine U.S. border cities, where, in some cases, they make up a significant part of the local labor force. These commuters contribute to the labor surplus situation prevailing on the U.S. side of the border, which has a depressing effect on wages and on trade union organizing campaigns.

Various proposals have been made in Congress and elsewhere to alleviate the economic and social hardships commuters are said to cause in U.S. border towns. But the present commuter system also has defenders who point out that retail and wholesale trade in towns on the U.S. side of the border is dependent upon the purchases of Mexican workers who earn U.S. wages. There is a great deal of interchange between the U.S. and Mexican border cities in all aspects of trade, commerce, and tourism. The cities are engaged in many joint undertakings, mutually beneficial to the social and cultural development of the people as well as to their economic and social development. This article examines the impact of commuters on commerce, employment, wages, and trade union organization, and possible remedies to counteract problems created by the commuter system.

The commuter

The Immigration and Naturalization Service refers to commuters as those aliens who lawfully have the privilege of residing in the United States but who choose to reside in foreign contiguous territory and commute to their jobs in the United States.[1] The practice of commuting internationally grew up because many towns along the Canadian and Mexican borders are really single communities separated by the international boundaries. The immigration laws of the 1920's, which were designed in large part to protect American labor standards, gave Mexicans and Canadians who worked in the United States admission as nonresident aliens coming to the United States for purposes of "business" or "pleasure," within the meaning of the immigration law. In April 1927, immigration authorities changed position and declared that aliens coming to work in the United States would be classified as immigrants and would have to acquire commuter status. This interpretation of the immigration law was upheld by the Supreme Court in 1929.

The first step in acquiring commuter status is to achieve lawful admission to the United States as an immigrant.[2] Since 1965, the immigrant applicant has also had to obtain a labor certification unless he is the parent, spouse, or child of a U.S. citizen or resident alien.[3] The immigrant's certification specifies that there is a shortage of workers in his particular occupation in the United States and that his employment will not adversely affect wages and working conditions of U.S. residents.

Upon admission to the United States, the commuter is registered as an immigrant and is given an Alien Registration Receipt Card (Form I–151), known as a "green card" from its former color. This card certifies his immigrant status and

Anna-Stina Ericson is deputy chief of the Foreign Manpower Policy Staff, Manpower Administration. She has been the Department of Labor's representative to the U.S.-Mexico Commission for Border Development and Friendship.

Table 1. Number of green card commuters from Mexico and of Americans unemployed

Port of entry, by State and county	December 1969		November–December 1967	
	Mexican commuters [1]	American unemployed	Mexican commuters	American unemployed
Total border ports of entry	49,770		40,176	
California	20,753		15,284	
San Ysidro (San Diego)	11,697	18,300	7,535	17,300
Tecate (San Diego)	631		561	
Andrade (Imperial)	141	3,389	31	4,900
Calexico (Imperial)	8,979		7,690	
Arizona	5,647		5,148	(4)
San Luis (Yuma)	3,616	[2] 869	3,553	1,500
Nogales (Santa Cruz)	1,388	175	1,118	275
Naco (Cochise)	113	577	94	800
Douglas (Cochise)	522		380	
Other	8		3	
New Mexico	31		30	
Columbus (Luna)	31	(3)	30	[3] 287
Texas	23,339		19,714	
El Paso (El Paso)	13,493	3,325	11,760	4,200
Fabens (El Paso)	321		279	
Del Rio (Val Verde)	200	774	317	500
Eagle Pass (Maverick)	2,089	1,215	1,635	1,200
Laredo (Webb)	3,456	3,325	2,669	3,300
Roma (Starr)	106		73	
Hidalgo (Hidalgo)	1,061	3,960	937	4,200
Progresso (Hidalgo)	82		50	
Brownsville (Cameron)	2,430	2,770	1,917	2,000
Other	101		77	

[1] Cumulative unduplicated count since November–December 1967. Commuters cross into the United States at least twice a week.
[2] October 1969.
[3] Not available.
[4] These figures are 1967 annual averages.
[5] March 1968.

SOURCE: Immigration and Naturalization Service, U.S. Department of Justice, and Manpower Administration, U.S. Department of Labor.

permits his reentry into the United States following temporary absences of less than 1 year. An alien is entitled to commuter status only if he has a job in this country and can lose this status if he is unemployed in the United States for more than 6 months.

In the past, the Immigration and Naturalization Service took periodic 1-day counts of alien commuters and has kept a continuous unduplicated count since a survey it conducted in November–December 1967. At that time, all "green cards," as they were presented at the border ports of entry, were picked up for verification and were grommetted to identify commuter status. In November–December 1967, 40,176 alien Mexican commuters were registered. By the end of December 1969, their number had grown to 49,770, as shown in table 1.

In addition to immigrants who commute to jobs in the United States from their Mexican residences, about 20,000 U.S. citizens also commute from Mexico to U.S. jobs. Most of these citizens were born of Mexican or Mexican-American parents and probably never lived in the United States or lived there only briefly.

Border area residents also classify as commuters those nonimmigrant visitors who possess nonimmigrant visas or border crossing cards and work illegally in the United States. The largest number of these commuters have 72-hour border crossing cards, valid for purposes of business or pleasure within a 25-mile area from the border. These cards do not authorize their holders to live or work in the United States, but many do.

The numbers who work without proper authorization are difficult to determine. In fiscal year 1969 over 200,000 Mexicans were apprehended for being in this country illegally. Of this number, roughly one-fourth had been in the United States from 1 month to a year, long enough to have been employed. The largest group (80 percent) of deportable Mexican aliens apprehended had entered without inspection. The next largest group (14 percent) were those holding visitor border crossing cards. Obviously, not all people who have border crossing cards work in the United States, but a sufficient number do to cause U.S. border residents to consider the practice widespread.

Employment and earnings

Employment in the border area is heavily concentrated in low-wage, low-skill industries: Agriculture, services, wholesale and retail trade, government, and light manufacturing. The San Diego area differs from the general pattern because there is more heavy manufacturing and higher wage industries.

There is limited information available about the jobs held by legal commuters, the "green carders." What is available was collected by the Immigration and Naturalization Service at the time of the 1967 survey of commuters. Commuters are found in the same types of occupations in which resident workers are found. Studies reveal that commuters generally receive the same wages resident workers receive when working in the same enterprise.

Occupational distribution. Forty percent of the commuters in November–December 1967 said they did farm work, 9 percent were general laborers, 8 percent were in clerical and sales occupations, 7 percent were maids in private households, 6 percent were in construction, and 5.6 percent were in hotel and restaurant occupations. Other signifi-

cant occupational groupings were the following: Metalworkers, 4 percent; sewing machine operators, 4 percent; and truckdrivers, 2.7 percent.

Farm work was particularly important among commuters entering in California and Arizona. It accounted for 60 percent or more of all commuters in those States.[4] Calexico in Imperial County, Calif., and San Luis in Yuma County, Ariz., received the bulk of Mexican commuter farm workers; over 80 percent of all commuters entering these ports were farm workers. In Texas, only 18 percent of the commuters listed farm work as their occupation. The important Texas ports of entry for farm workers were Eagle Pass in Maverick County and Hidalgo in Hidalgo County (the port of entry for McAllen) in the Lower Rio Grande Valley. Commuters entering other Texas ports of entry were more likely to be general laborers, clerical and salesworkers, domestic servants, construction workers, metalworkers, or hotel and restaurant workers.

Commuters are found working with resident workers and competing with them for available jobs. Resident workers may occasionally find themselves at a disadvantage in the job market because some employers favor commuter workers. A study of the El Paso garment industry revealed that some employers prefer commuters because they believe they are superior workers, are more cooperative, less troublesome, and more reliable because "they have to work." [5]

Earnings. In the border cities, wage rates are lower than in the rest of the border States and lower than national averages for similar industries or occupations. Statutory minimum wages, where they apply, tend to be the prevailing wages, and there are numerous examples of prevailing wages below the statutory minimum, where the legal minimum wage does not apply. A minority of workers are paid at wage rates above the minimum.

In January 1968 the Department of Labor made a survey of wages paid to commuters and U.S. residents in the same occupations in Laredo, Tex.[6] Data were obtained from 95 establishments for 1,075 residents and 608 commuters in 48 broad occupational groupings. The establishments surveyed employed at least 5 commuters at the time of the Immigration and Naturalization Service survey in November and December 1967.[7]

Twenty-five occupations, in which 5 commuters or more were employed, accounted for 84 percent of the residents and 94 percent of the commuters in the sample. The occupations in which the commuters were concentrated paralleled those reported in the Immigration and Naturalization Service survey, except that the Department of Labor study covered establishments only, excluding farm workers and domestics. Average hourly earnings for the 25 surveyed occupations ranged from $0.81 for busboys and $0.86 for service station attendants to $2.10 for customs appraisers. Commuters and resident workers in the same establishment received identical wages in each occupational classification.

The Federal minimum wage in effect at the time ($1.40 an hour) was the rate most commonly paid to the commuters; 48 percent of the commuters surveyed received precisely that amount, and 28 percent received less. The ready supply of workers (both residents and alien commuters) kept the prevailing wage at the Federal minimum where it applied and below that level for the number who worked in occupations not covered.

Since this study was completed, a study was conducted to determine the impact of the commuter on the El Paso apparel industry in 1968–69.[8] It found that wages in the apparel industry in El Paso "were low compared to wages in the same industry for other States and regions in the United States and, in addition, when compared with the same industry in other cities in Texas." Most of the workers surveyed received the minimum wage or just slightly more. The study concluded that the Federal minimum wage for the industry was actually the maximum because of the large number of workers willing to work at this wage. Those workers included commuters, Mexican nationals with temporary visitor permits, "wetbacks," and the unemployed and underemployed residents of El Paso—all of whom have a depressing effect on wages in El Paso. Some employers do not differentiate between these categories of persons but consider them all from the same labor pool.

Besides being an area where the prevailing wages are at or below the Federal minimum wage, the border also has a relatively high incidence of Federal wage-hour violations. Almost one-fourth of the workers living in the border States who were paid less than the statutory

Table 2. Border area labor force and unemployment rates, 1968 and 1969

[In percent]

State and labor market area (county in parentheses)	Current labor force	Unemployment	
		1969 annual average	1968 annual average
Arizona	671,000	2.9	3.7
Yuma (Yuma)	[1] 27,200	(2)	4.0
Tucson (Pima)	117,000	3.1	4.0
Nogales (Santa Cruz)	5,650	4.7	[3] 5.7
Southern Arizona (Cochise)	20,625	3.2	3.4
California	8,496,000	4.0	4.5
San Diego (San Diego)	455,600	3.8	3.9
Imperial (Imperial)	35,400	8.6	8.1
Texas	4,650,000	2.7	2.7
Brackettville (Kinney)	1,100	6.7	9.5
Brownsville-Harlingen-San Benito (Cameron)	48,310	6.2	5.8
Carrizo Springs (Dimmit)	3,200	9.2	8.9
Crystal City (Zavala)	5,900	11.2	10.8
Del Rio (Val Verde)	9,670	7.5	6.8
Eagle Pass (Maverick)	7,940	11.9	9.1
El Paso (El Paso)	123,250	3.7	4.0
Laredo (Webb)	30,825	8.5	9.0
McAllen (Hidalgo)	63,280	5.9	5.8
Rio Grande City (Starr)	4,700	12.6	11.5
Uvalde (Uvalde)	6,200	6.6	6.4
Zapata (Zapata)	1,900	11.7	10.7

[1] Data for labor force in October 1969. Data for all other labor market areas are for December 1969.
[2] Not available.
[3] 6.6 percent after removing Mexican commuter workers from the labor force figure.

minimum wage in 1969 lived in the border counties. A third of all workers in the border States who suffered equal pay and McNamara–O'Hara Service Contract Act violations lived in the border counties. These are high levels of violations, particularly since the border counties do not represent a high proportion of employment covered in those States.

UNEMPLOYMENT. Unemployment rates along the U.S. side of the border, except in two or three cities, are far higher than the average unemployment rates for the border States and are among the highest in the country. (See table 2.) Nevertheless, a comparison of the number of the unemployed with the number of commuters, as shown in table 1, suggests that at least in some of the border cities there would be a labor shortage without the commuters. Other estimates of the local manpower situation quickly dismiss this suggestion. These estimates, prepared by area CAMPS committees,[9] reveal that unemployment figures published by the local employment services understate actual conditions. Job opportunities are so limited in some cities that large numbers of potential workers do not actively seek work and are not counted as unemployed. In most of the cities, large numbers of employed workers work fulltime at jobs that pay less than poverty level wages, or they work only part time because they are unable to get full-time employment. These workers are classified as underemployed.

Combining the estimated unemployed and underemployed reveals a very different picture of the economic conditions of workers in the U.S. border cities from that shown by published unemployment data. In the cities for which such calculations could be made, estimates of unemployment and underemployment range from about 8 percent to almost 50 percent of the labor force. (See table 3.) The presence of large numbers of Mexican commuters in these labor markets is an obvious disadvantage to resident workers.

PRESSURE OF MEXICAN UNEMPLOYMENT. Unemployment is also a serious problem along the Mexican side of the border. For years, commuters have crossed into the United States to work, but since the end of the bracero program in 1964, they have been more visible and have increasingly entered agricultural occupations. Because of the bracero program, large numbers of Mexicans migrated to the border area in hopes of getting jobs in the United States. As a result, the populations of the Mexican border towns have increased dramatically, faster than it has been possible to create jobs, and the pressure to work on the U.S. side of the border has increased greatly.

Table 3. Estimated unemployment and underemployment in selected border labor market areas, 1969, and published labor market statistics

Labor market area (County in parentheses)	Labor force 1969 [1] average	Published unemployment 1969 [1]		Estimated unemployment [2]	Estimated underemployed [3]	Combined underemployed and unemployed	
		Number	Rate			Number	Rate
San Diego (San Diego)	436,400	16,600	3.8	16,600	26,300	42,900	9.8
Imperial (Imperial)	32,600	2,600	8.0	[4] 7,824	(4)	7,824	24.0
Nogales (Santa Cruz)	5,650	322	5.7	(4)	(4)	476	8.4
El Paso (El Paso)	122,000	4,390	3.6	14,375	45,000	59,375	48.7
Laredo (Webb)	29,700	2,520	8.5	3,115	4,152	7,267	24.4
McAllen (Hidalgo)	62,900	3,700	5.9	4,320	17,000	21,320	33.9
Brownsville (Cameron)	48,800	3,040	6.2	2,940	12,965	15,905	32.6

[1] Based on reports from State Employment Security Agencies.
[2] Based on the Comprehensive Manpower Plans, Fiscal Year 1970, prepared by the local Area Manpower Coordinating Committees, and published in the Arizona, California, and Texas Cooperative Manpower Plans for Fiscal Year 1970.
[3] Estimated on the basis of the proportion of Mexican Americans in the labor force and Mexican American unemployment rates (both given in the CAMPS plan) and assuming that Mexican Americans make up 50 percent of the area's unemployed.
[4] Not available.

NOTE: Where the information on underemployment differentiated between disadvantaged and nondisadvantaged, the figures for the disadvantaged underemployed only were used. The figures on those not in the labor force but who local manpower planning officials thought could or should be in the labor force are not included, if it was possible to identify them.

At the same time that the bracero program ended and restrictions were placed by the U.S. Government on temporary agricultural workers from Mexico, the duty-free allowance that Americans were permitted to bring back into the United States after a trip abroad was reduced from $500 to $100. The liquor allowance was simultaneously cut from a gallon to a quart. These events had an immediate negative impact on several of the Mexican border cities, since bracero remittances and tourist purchases, including the sales of liquor, were the mainstays of their economies.

Until Mexico launched its border industrialization program in late 1966, the Mexican Government had done little to help create jobs in its border area.[10] By the end of January 1970, over 17,000 persons were employed in the industries created under this program, and an unknown number of workers were employed in ancillary jobs. This program stimulates additional northward migration of Mexicans eager to work in the new plants.

In an effort to determine the magnitude of unemployment and underemployment, the Mexican National Minimum Wage Commission, under the auspices of the U.S.-Mexico Commission for Border Development and Friendship, conducted a survey of unemployment and underemployment in six border cities in 1969. This survey inquired about the characteristics of the people surveyed and the number who commute to work in the United States. Without the U.S. jobs, the Mexican figures on unemployment and underemployment would be significantly higher. Officials interviewed during the surveys said that a cause contributing to the high rates of unemployment on the Mexican side of the border is the continuing migration of workers from the interior regions of Mexico who hope to find jobs on the U.S. side of the border. Table 4 summarizes the findings of the Mexican survey.

Table 4. Summary findings of survey of unemployment and underemployment in 6 border cities, 1969

Municipio	Population (late 1968—early 1969)	Labor force	Unemployed and underemployed		Number reported working in the United States	
			Number	Percent of labor force	Number	Percent of labor force
Tijuana	450,000	157,000	31,000	19.7	9,000	5.7
Mexicali	564,700	181,381	[1] 33,587	[1] 18.5	10,000	6.0
Nogales	60,000	19,000	8,000	42.1	[2] 3,500-4,500	6.7-7.9
Ciudad Juarez	480,000-500,000	150,000	30,000-40,000	20.0-26.7	[3] 18,000-22,500	12.0-15.0
Nuevo Laredo	135,000	43,600	10,000	22.9	4,500	9.2
Matamoros	185,000	60,125	7,000-8,000	11.6-13.3	2,800	4.7

[1] If the total number of persons looking for work for the first time (an estimated 10,000) is included, as they are in the other municipios, the number of unemployed increases to 39,355. The higher figure produces an unemployment rate of 21.7 percent.
[2] An estimated 3,000 additional persons were reported as having applied for papers to work in the United States and were awaiting a reply.
[3] An estimated 19,000 additional persons were reported as having applied for papers to work in the United States, but the survey indicated that it takes from six months to a year before their papers are acted upon.

SOURCE: Based on data published in "Revista Mexicana del Trabajo," Secretaría del Trabajo y Previsión Social, September 1969.

In the six border cities, from 119,587 to 130,587 workers were unemployed and underemployed in 1969—roughly one-fifth of the combined labor force of 611,100 of these cities. Close to 10 percent of this group of workers were looking for work for the first time. Forty to 45 percent of the workers reported that they were holding or had held jobs in the United States. Of those who had worked in the United States, the largest number worked as farm laborers. The next largest groups worked as factory workers, domestics, office workers, and gardeners, in that order. Of those who worked in Mexico, the unemployed and underemployed were most often farm laborers or bricklayers. Significant numbers were mechanics, chauffeurs, carpenters, and painters.

Over a third of the workers surveyed fell into the 25 years or younger age group (the proportion was as high as 75 percent in Matamoros), and close to half of them were single. Between 30 and 52 percent were natives of the area. In Ciudad Juarez only 15 percent were natives, and in Tijuana none of those surveyed were natives of the area. These figures confirm the strong attraction the border area has for Mexicans elsewhere in the country and indicate no lessening in the pressures of continuing population growth and migration.

Trade union organization

Organized labor in the United States is concerned that the presence of Mexican commuters, particularly in the grape fields of California, is a deterrent to the organization of farm workers and to the right of organized workers to strike. At its 1969 convention, the AFL–CIO passed two resolutions about Mexican border crossers. Resolution 208, which identifies the commuter with "strikebreaking and unfair competition with workers seeking their rights to organize on the farms and in the factories of the U.S.," calls

for Congressional action to control the "widespread use of Mexican commuters which undermines American wage and labor standards, narrows employment opportunities for American workers, and provides a constant threat of strikebreaking." In its resolution supporting the farm workers' organizing efforts (Resolution 233), the AFL–CIO describes how the growers employ green card commuters as strikebreakers, reiterates its support to bring farm workers under the protection of the National Labor Relations Act, and urges "improvements in the Government's immigration policies."

The use of green card commuters as strikebreakers was barred in June 1967, by a Federal regulation which precludes the use of the green card by an alien who has left this country and seeks to reenter to accept or continue employment at a place where the Secretary of Labor has determined that a labor dispute exists. In practice, this regulation has been difficult to enforce because green card commuters may decide to become residents of the United States during a labor dispute in order to keep their jobs.

The United Farm Workers Organizing Committee (UFWOC) claims that the Immigration and Naturalization Service has yet to use the regulation for its expressed purpose and that commuters have had little difficulty crossing the border to work in strikebreaking situations. A UFWOC organizer in Delano, Calif., testifying before the Subcommittee on Migratory Labor of the Senate Committee on Labor and Public Welfare in May 1969, reported that the fear of losing their jobs to commuter workers stops many resident agricultural workers from striking.

Several legislative proposals responsive to trade union concern have been introduced in the Congress in recent years. These include an amendment to the National Labor Relations Act to make it an unfair labor practice for employers to hire aliens illegally in the United States or for employers to hire commuters to replace regular employees during a labor dispute. Some of the proposals would extend coverage of the National Labor Relations Act to the agriculture industry.

Proposals for change in the commuter system

There is a lack of consensus among border area residents about commuters. In its 1968 report, the Good Neighbor Commission in Texas, an organization which has statutory responsibility for the State of Texas to survey the conditions and problems of migrant labor, stated that the positions of persons for and against the commuter system are "adamant almost to the point of being unnegotiable and without compromise." [11]

There is concern, however, about the effects on the U.S. border cities of changing the longstanding practice of commuting. Any curtailment of the commuter system would probably result in the large-scale movement of commuters and their families to the United States. The housing supply for low- and moderate-income families is already in short supply, and a sudden or even fairly gradual influx of the commuters would seriously exacerbate this situation.

The large-scale movement of Mexican commuters and their families to the United States could also have serious short-term consequences for resident workers. The change in status from commuter to resident would do nothing to alleviate the labor surplus situation already existing in most border cities. During periods of recession, there would be increased competition for jobs, since the commuters then would not have the option of returning to Mexico to live while retaining their immigrant status.

In spite of these and other misgivings about the consequences of changing the commuting system, the concern of the labor movement for the organizing efforts of border area workers and the newly aroused concern of the Mexican-American community with poverty and their lack of economic opportunities are gathering support for a change in the commuter system.

Eliminating the commuter system

Some opponents of the commuter system would like to see all commuters prohibited. But eliminating the commuter system immediately seems to be a harsh alternative. Since the system of commuting has been sanctioned administratively by the United States for over 40 years, the commuters have obtained their immigrant status on the good faith assurance that the United States would not change an administrative practice of such long standing. An abrupt change could create serious personal hardships for the commuters and would probably cause diplomatic difficulties with both Canada and Mexico. Closing the border to commuters could also result in a great increase in

illegal entrants. Terminating the commuter system over a period of time might prevent some of the difficulties mentioned. At least it would make it possible for the U.S. communities to start constructing housing and schools to meet anticipated needs and for the commuters to plan how to move their families to this country.

If the Government were to adopt this alternative, it could eliminate commuter status as of a certain date. Only those aliens already having "green cards" would be permitted to continue to cross the border to jobs in the United States. The question then becomes how long they would be permitted to continue commuting. If they were permitted to continue indefinitely, there would be minimal hardship on Mexican commuters' families. Families would not have to be uprooted, and the commuter practice would disappear through attrition, since no new commuter cards would be issued, not even to family members.

Alternatively, the present commuters could be given a time period, say a period of 2 to 5 years, in which to make the transition from Mexican residents to bona fide U.S. residents or lose their immigrant status. Under this alternative, special arrangements would probably have to be made to give the immediate families of present commuters unique consideration in regard to the Western Hemisphere annual immigration ceiling of 120,000. The family members could be admitted on a one-time-only basis without regard to this ceiling during the transition period, or additional numbers could be added to the ceiling to take care of those already on the waiting list. A bill (S. 3545) introduced by Senator Edmund S. Muskie on March 4, 1970, would accommodate the family members by the addition of numbers to the Western Hemisphere immigration ceiling for a 2-year period following the effective date of the bill.

A recent survey of commuters[12] reveals that between 80 and 90 percent of all commuters would want to move to the United States if commuting were no longer permitted. An influx of between 40,000 and 45,000 commuters and their families could create a massive shortage of housing, education, and other public services. If that number of commuters decided to take up permanent residence in the United States and were able to bring their families with them, a Mexican population of between 200,000 and 300,000 people could be expected to move to the United States in a relatively brief span of time. Probably a small proportion of these families would try to move to areas away from the border, but a majority could be expected to reside in the U.S. border towns.

Absorbing such large numbers of Mexicans would be an intolerable financial burden for the border communities. Income generated by the new residents through the payment of rents or mortgage loans, payments for utilities, and local taxes would be more than offset by the cost of providing low-income housing, schools, sanitation, and other services. At least in the early years, Federal and State aid would undoubtedly be needed. Administration of such a program might be similar to that provided in federally impacted areas, or to that provided to Cuban refugees since the revolution which brought Fidel Castro into power.[13]

Strenuous efforts at all levels of government and by private organizations would have to be made to attract new industries to the U.S. border towns so that the change in the commuter system would not result in added burdens of underemployment and unemployment. Large scale training and education programs coupled to credit availability, tax relief, and other programs would make these incentives even more attractive. Consideration might also be given to mobility and relocation assistance to help both local residents and immigrants who are not able to find employment or who want to locate elsewhere. If the numbers who locate away from the border area are sufficiently large and if they tend to concentrate in specific locations, these localities might also need financial assistance.

Labor certification

Much of the controversy centering around the commuter system stems from the effect that commuters have on wages and employment levels in the border communities. Because large numbers of commuters, indeed the bulk of them according to Immigration and Naturalization Service officials, are not required to get labor certification because of their relationship to a citizen or an immigrant, current labor certification procedures have little impact on the regulation of commuter traffic. If the decision is made to permit the continuation of commuting, or to continue it only

for those Mexicans who are commuters as of a certain date, consideration should be given to changing the labor certification requirements. At the present time, immigrants to this country need to be certified only once, at the time of application, and then only if the immigrant applicant is not a parent, spouse, or child of a U.S. citizen or resident alien.[14] To be effective in controlling the numbers of commuters from Mexico (and Canada), the certification by the Secretary of Labor would have to apply to all commuters, or be required at periodic intervals.

Under the present Immigration and Nationality Act, labor certifications are made either through the use of lists of occupations (schedules), which permit the processing of applications without individual review by the Department of Labor, or by individual case review. These methods are responsive to economic and manpower conditions and expedite the processing of cases. The wage level used is that prevailing for the occupation. The legislative proposals currently before Congress would not change the present method of certification; they would merely require it periodically.

If, in addition, the exceptions to the labor certification requirement were tightened and an adverse effect wage were added to the certification language, the procedure of labor certification might be more effective in limiting the numbers of commuters from Mexico. For example, the exception from labor certification applying to Western Hemisphere immigrants could be amended to prevent the automatic exception of the parents of children under a certain age. (Many Mexican children are U.S. citizens by virtue of having been born in a U.S. border city hospital but have never lived in this country.) Also, an adverse effect wage requirement could be added which would require commuters to be paid at a somewhat higher rate than the prevailing wage. This might have the advantage of preventing wage competition by Mexicans and pushing local prevailing wages upward. Administration of an adverse effect wage that is higher than the prevailing wage could be very cumbersome unless a system of wage information, similar to the occupation schedules, could be developed.

If a change in the system is made, it would be useful to provide safeguards in the new system to prevent commuters from losing their immigrant status immediately if their jobs would not qualify for recertification and to prevent unscrupulous employers from abusing the commuters. The safeguard would allow for a specified interval during which the commuter could seek another job or move to the United States.

Work permit

An alternative to the commuter system would be to institute a new nonimmigrant border crossing card—the nonresident work permit. This alternative would permit workers living in Canada or Mexico to work in the United States at jobs where qualified U.S. residents were not available. The work permit could be issued for a specified period of time and would be renewable if the condition under which it was originally granted continued to exist. A periodic review to make such a determination would be required. Care should be taken that this system not be used to exploit the foreign worker and that more than a pro forma certification of lack of availability of resident workers is made before issuing the work permit.

Other alternatives

Commutation tax. Commuters are frequently cited as a financial drain on the municipal services of U.S. border cities because they pay no property or school taxes, yet use many local services. It has been suggested [15] that a weekly commutation tax, collected from the employers, would help pay for these services. A tax of $1 a week per commuter would provide $2.5 million annually (50 weeks times 50,000 commuters), which could be divided among the local, county, State, and Federal Governments. While such a tax might not be a serious financial liability for employers, it might be enough of an administrative problem that it would encourage employers to hire U.S. residents instead of Mexican commuters. Such a tax could also be paid by the commuters themselves as a payroll deduction. This would put the tax burden on the commuters who are already earning only a minimum salary in most cases; but, since living costs on the Mexican side of the border are lower than on the U.S. side, this tax might be tolerable.

Commuter ticket. Large numbers of people in the United States commute daily on the railroads from their residences in the suburbs to their jobs

in the cities. A similar system could be developed for border commuters. Cards or tickets could be issued subject to labor certification rather than a fee. A fee could also be charged, that would in effect be a commuter tax added to the commuter ticket. In any event, the card or ticket would be punched or picked up automatically each time the commuter crosses into the States, and an accurate record would simultaneously be made of the number crossing on any 1 day.

LOCAL INITIATIVE. There are steps which the border area people themselves can take to reduce the abuses of the commuter practice and to provide greater opportunities for U.S. residents. Chambers of commerce, industrial development groups, State employment offices, women's organizations, and other business and service groups could begin a major campaign to give job preference to U.S. residents. Some employers in border cities already do this. Since many commuters have U.S. addresses, such a campaign would force employers and workers alike to prove that a worker's U.S. address is a bona fide residence which he inhabits.

Local businessmen, instead of advertising the special advantages of establishing plants in the Mexican border area, might advertise the benefits of a U.S. border location and aggressively seek the means of raising local revenues to provide favorable plant sites, good transportation to and from major markets, and other facilities.

Workers in the border area could strive to make their State employment security agencies provide manpower services in a more effective manner. They could do this individually or work through their own Mexican American organizations or their unions. Union organization in most of the border area is very weak, because of obstacles put up by employers and State laws and because of the surplus of labor in the border area. However, the major unions have few organizing campaigns in the border area outside of southern California.

Conclusions

In various studies, the following adverse effects of the commuter system have been identified:

- Wages are lower along the border because of the impact of the commuter.
- Unemployment is higher in areas where commuters are present.
- The incidence of violations of the wage and hour law is greater in the border area.
- Collective bargaining in the border areas is hampered by the availability of commuter workers.

There are difficulties, however, in changing the present system which has had legal validity for so many years. Mexican nonresident aliens, as well as many U.S. border residents, consider it a right. The economies and the social and political climate of the border communities have been shaped by the availability of a large pool of low-skill and

Mexican-American workers in the United States

In order to understand the present status of Mexican-Americans in the United States, it is imperative that we investigate the conditions on the U.S.-Mexico Border. Since the turn of the century Mexico has supplied, legally or illegally, a large portion of the labor force, mostly unskilled, which has contributed to the development of the Southwest. The fluctuations of the U.S. economy are clearly reflected in the movements of people across the border. Much of this labor force has first found a place, however precarious, in agricultural endeavors before moving into the urban environment. Many continue working as farm laborers although living in the city. Whether they have come as legal immigrants, as "braceros," as "commuters," as "wetbacks," or as "visitors," they have left an imprint in the society. Thus what happens on the border has repercussions in Detroit, Chicago, Denver, San Antonio, and certainly Delano.

—Julian Samora in Preface to Ernesto Galarzza, *Spiders in the House and Workers in the Field* (Notre Dame, Ind., University of Notre Dame Press, 1970).

relatively low-wage Mexican labor.

A number of alternative solutions to the commuter system have been suggested. A major consideration in choosing any alternative or combination of alternatives is that an abrupt end to the practice of commuting would result in hardships for both the commuters and their families and for the U.S. border cities in which they work. The studies that have been made conclude that, if forced to choose between taking up permanent residence in the United States or surrendering their "green cards," an overwhelming proportion—as high as 80 or 90 percent—of the commuters would move to the U.S. side of the border. They would become residents of communities which may already be in some economic distress and are ill-equipped to handle unanticipated massive demands for services. If the commuters and their families are to be relocated without seriously disrupting these border communities, provision must be made to ensure the availability of basic services such as housing, education, medical care, and family assistance and to expand employment opportunities. □

FOOTNOTES

[1] There are also Canadian commuters, but because of more similar wage and other labor standards between Canada and the United States, the employment of Canadian workers does not have the depressing economic effect that the employment of Mexican workers has.

[3] Until July 1, 1968, when an annual ceiling of 120,000 was imposed there was no numerical limitation on immigration from independent Western Hemisphere countries and the Canal Zone.

[3] Immigration and Naturalization Service officials have stated that this exclusion means that the "bulk" of immigrants from Mexico do not need labor certification.

[4] At the time this survey was conducted, seasonal agricultural employment was at or near its peak in the border areas. Among the commuters who listed farm work as their occupation were 7,743 who had been doing migratory farm work in the United States but were then back in the border area and commuting from Mexico. Had they not been identified as commuters at that time, it is likely that they would now be counted as seasonal workers, that is, Mexicans with immigrant visas who enter the United States and follow the crops, returning to Mexico to live at the end of the season. Since August 1968 the Immigration and Naturalization Service has listed these aliens as seasonal workers, and by December 1969 had identified 4,628 of them in an unduplicated, noncumulative count.

[5] Brian Scott Rungeling, "Impact of Mexican Alien Commuters on the Apparel Industry of El Paso (A Case Study)," a Ph. D. dissertation. University of Kentucky, June 30, 1969, p. 74.

[6] Stanley M. Knebel, "Restrictive Immigration Standards: Probable Impact on Mexican Alien Commuter," *Farm Labor Developments* (U.S. Department of Labor), November 1968.

[7] A subsample of eight gasoline service stations employing less than five commuters was also included.

[8] Brian Scott Rungeling, op. cit., chapters IV and V.

[9] Committees of the Cooperative Area Manpower Planning System (CAMPS). Composed of officials working with manpower and related matters, these committees are organized at local, State, regional, and national levels, the initial local plans being acted on and consolidated at successively higher levels.

[10] See Anna-Stina Ericson, "An Analysis of Mexico's Border Industrialization Program," *Monthly Labor Review*, May 1970, pp. 33-40.

[11] "Alien Labor, Commuters and Immigration Reform," in *Texas Migrant Labor, The 1968 Migration* (Texas Good Neighbor Commission, 1969), p. 5.

[12] David S. North, *The Border Crossers, People Who Live in Mexico and Work in the United States;* September 1, 1969, draft of a study financed under a Manpower Administration Research Contract, p. 225.

[13] The number of Cuban refugees who have been registered in the Cuban Refugee Program (which is entirely voluntary) since it began in January 1959 was 366,902 as of March 20, 1970. Of these, 242,606 have been resettled in over 3,000 communities in 50 States. (Department of Health, Education, and Welfare, Office of the Cuban Refugee Program.)

[14] This exception applies to all Western Hemisphere applicants. The exception is slightly different for Eastern Hemisphere applicants.

[15] David North, op. cit., p. 254.

THE BORDER CROSSERS

People Who Live in Mexico

and

Work in the United States

by

David S. North

This study was prepared for the Manpower Administration, U.S. Department of Labor, under research contract No. 81-09-69-08 authorized by Title I of the Manpower Development and Training Act. Since contractors performing research under Government sponsorship are encouraged to express their own judgment freely, the report does not necessarily represent the Department's official opinion or policy. Moreover, the contractor is solely responsible for the factual accuracy of all material developed in the report.

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April, 1970

"The industrial labor situation in Laredo is considered to be very satisfactory. There is a large supply of available workers who have a good attitude toward their jobs...

"Both large supply and good attitude of industrial labor are related to the fact that Laredo has a permanent surplus of labor. Competition for jobs is, therefore unusually strong. Labor turnover and absenteeism are virtually nil in presently operating plants.

"While seven labor unions, in addition to the complex of railroad organizations, are found in Laredo, the labor history has been remarkably good..."

An Industrial Inventory of
Laredo, Texas

The Laredo Chamber of Commerce,
August, 1962

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Prologue

It was four in the morning, chilly for March in Brownsville, and the workers from Mexico straggled across the bridge in twos and threes, braced for their daily confrontation with the United States Government. The workers carried two items which they showed to the Federal officials, their lunch (which was squeezed gently to check against the entry of oranges and other forbidden fruit), and one of a variety of entry documents.

These were farm workers. There were men and women, boys and girls, all Mexican, all poor, all headed to a nearby street corner where the local farmers hired (or refused to hire) them on the spot, and then loaded them onto their flatbed trucks for the trip to the farm, maybe forty miles away. No buses, just trucks. A couple of Anglos working for the Texas Emploment Commission watched the scene.

Many of the workers were 14 and 15; they had been born in America and showed the man at the bridge their battered birth or baptismal certificates. Now, the Fair Labor Standards Act makes it illegal to employ a child under sixteen while school is in session, and Brownsville's schools would be opening a few hours later. Normally it is hard to enforce the child labor law in agriculture -- warning whistles send the smaller kids out of the fields while the bigger ones simply lie about their age.

Here, at a farm workers' shapeup, where the youngsters had to carry a birth certificate, was a made-to-order enforcement situation, but nobody cared.

Demand for workers was pretty brisk that morning, as the onion prices had been favorable the previous day. There was, however, no bargaining for wages--you either took what the farmer or his labor contractor offered, or you didn't work. And the worker was never offered the guaranteed $1.30 an hour which the Congress in Washington had decreed. All the wages were piece rates. Most of the workers climbed onto the trucks, but a few didn't make it, and had to walk back to Matamoros or to their homes in Brownsville.

It was a good introduction to the labor economics of the border.

Introduction

While the bracero program (which brought Mexican Nationals into the U.S. to work on farms) was the subject of national controversy for many years -- concluding with the U.S. Department of Labor's termination of it -- a comparable Western manpower problem has received scant attention. That is the daily influx of Mexican residents who come to work in the border areas of Texas, New Mexico, Arizona and California. This is a study of these border crossers, financed by the Department of Labor, and indirectly inspired by its former Secretary, the man who ended the bracero program, W. Willard Wirtz.

In the course of this study, we took three broad approaches; we read everything that has been written on the subject, largely in Federal hearings and court cases; we talked with numerous knowledgeable individuals on both sides of the border; and our interviewers talked with 560 border crossers, including U.S. citizens living in Mexico and working in this Nation, illegal entrants who had worked in the United States, and Mexican Nationals who use their status as "resident" aliens of the United States to commute from their homes in Mexico to jobs in the United States.

Our principal motivation for the study was a concern about the impact that the commuting workers have on the resident American work force in an area where wages are generally low and unemployment high. (This generalization, like most about the border, must bear the caveat, except for San Diego.) We were also interested in the origins of the commutation practice,

the controversies it has created, and the role played by the border crossers in a variety of Federal programs. Finally, we wanted to find out more about the border crossers themselves, who are they, how old are they, what kind of work do they do, and what do they get paid for it.

Unfortunately the best potential source of data on the subject, the Immigration and Naturalization Service (INS) does not gather much information on border crossers, rarely tabulates the information that it does have, and, in Washington, anyway, tends to be rather defensive about the whole subject.

Virtually everyone else we contacted, however, including most of the INS field people, were open, friendly, and very helpful. Whether we were talking with a sleepy farm worker on his way to work at 3 or 4 a.m., or a captured illegal immigrant, or a busy official, the response was generally the same, and we are most grateful.

The author's thanks also go to William Haltigan, Stanley Knebel and James Nix of the Department of Labor, three men who know the border intimately and are concerned about it; to those handling our contract, notably Howard Rosen, Joseph Epstein and Lester Rindler, whose patience was strained on occasion; to the wise counsel and friendship of Warren Wiggins, President of TransCentury Corporation, the research and consulting firm which had the contract for this study; to the cheerful and public spirited staff which worked long hours under often frustrating conditions, Cathryn Cunningham,

Homer Galacia, Richard Garcia, Lee Geisen, Ramiro Guerrero, Therese Heipp, Arthur Hinojos, Gilbert Lopez, Andre Malabanan, Armando Reyna, Carlos Rivera, and Sal Siqueiros.

The author also owes special gratitude to his wife, Joan, and three little boys, Gregory, Jeffrey and Rodney, whose collective patience over a period of many months was remarkable.

Needless to say, although many hands helped prepare this report, the accuracy, or lack thereof, and the opinions expressed are those of the author and not those of TransCentury Corporation (which is comfortable with them) nor of the Department of Labor (which may worry about some of them).

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There is a variety of specialized terminology used on the border, and some words given special meaning in this study (such as border crosser), thus, a few definitions may be helpful.

Definitions

Green Card Commuter -- A Mexican National, living in Mexico, who works in the United States. Formally regarded by the Immigration and Naturalization Service as a "permanent resident alien" (of the United States).

Citizen Commuter -- An American citizen, living in Mexico and working in the United States.

Legal Border Crossers -- Members of the two classes described above.

Illegal Entrant -- A Mexican National who crosses the border to work without authorization.

Border Crossers -- Members of all the classes noted above.

+ + + + +

Anglo -- A white, non-Spanish resident of the United States.

Bracero -- A Mexican National, doing temporary agricultural work in the United States under an arrangement sanctioned by the U.S. Government. These arrangements were made between 1943 and 1967 and could be revived in the future. (Spanish for the strong-armed one.)

Border Card -- An INS document given to Mexican Nationals, allowing the holder to cross the border at will, but not allowing him to penetrate more than 25 miles into the United States, and not permitting him to work. These are undated and issued by the millions.

Green Card -- A laminated lien Registration Receipt (I-151) carrying the individual's photograph, issued by the INS to permanent resident aliens. The card, which was originally greenish in color, is given to such aliens in lieu of their visas, and is a handy document to use for border crossings.

Mordita -- A bribe or (often) the practice of bribery (Spanish).

Operation Intercept -- A short-lived effort made by the U.S. Government, in the fall of 1969, to reduce the supply of marijuana and other drugs by clamping tight controls on all border traffic.

Operation Wetback -- A para-military operation mounted by the INS in 1954 and 1955 which sharply reduced the incidence of illegal entrants in the Southwest.

The Valley -- The three counties of Texas' Lower Rio Grande Valley - Cameron, Hidalgo and Starr.

Summary of Findings

I. Border crossers are numerous, and play an important role in border area labor markets. The Immigration and Naturalization Service has counted 47,876 Green Card Commuters and, in 1966, 18,259 citizen commuters. In addition, it is estimated that there are enough illegal entrants in the border counties to make the total bordercrossing labor force at least 100,000. This represents 11% of the labor force in a strip of counties along the border from Texas to California, and 17% of it East of San Diego.

II. The impact of the border crossers has engendered a series of controversies, along the border, and within the executive, judicial and legislative branches of the Government. Bills are now pending in Congress, and one court suit is active at the moment. Critics contend that the border crossers depress labor conditions on this side of the border, while defenders of the system say that the commutation practice should continue for diplomatic and economic reasons.

III. Our survey of the border crossers (conducted in their homes in Mexico, at an American consulate and in the three detention centers for illegal entrants) showed:

A. The Green Carders are essentially a 25-54 year old work force; the illegals and citizens are much younger.

B. Levels of educational attainment, for the border crossers are low, particularly for the illegals.

C. Most border crossers do unskilled work, with the largest single occupation being farm work; this is particularly true of the illegals.

D. Despite the fact that they are all working, the border crossers are paid so poorly that a substantial majority of them have family incomes, from all sources, below the U.S. poverty threshold for a family of five - $3,992 per year. (The average family size of the border crossers is more than 5.)

E. Most border crossers we surveyed have very slim ties to the United States. Of the citizens, 34.1% have never lived in the United States, and 44.6% of the Green Card commuters have not lived here. Of those who have lived here, a majority have been in the United States for less than two years.

F. Border crossers have a very low degree of political participation in either Mexico or the United States. Union membership is in the neighborhood of 10%.

G. Most border crossing families have a diversity of citizenship making it difficult to move the entire family to the United States, should they want to do so.

IV. The predominance of evidence suggests that the border crossers, have, in fact:

A. Taken jobs which otherwise would be filled by residents of the United States.

B. Depressed wages by their presence in already loose labor markets.

C. Tended to reduce the likelihood of union organization.

D. Tended to encourage border county residents to seek work elsewhere in the Nation as agricultural migrants.

V. The labor market problems of the area, and the immigration problems of many of the families, relate to difficulties with the immigration law, and the way that the U.S. Immigration and Naturalization Service interprets it:

A. The basic premise that allows Green Card holders to commute -- that they are permanent resident aliens, though obviously not residents of this country, is the root of the difficulty, and is based on INS regulations, not statute.

B. The labor certification provisions of the immigration law, designed to limit the number of newly arrived unskilled immigrants, is relatively ineffective on the southern border, because of the number of potential immigrants who can use close relatives in the United States, rather than a skill, as the rationale for admission to the Nation.

C. INS allows Green Card commuters, living in Mexico, to petition for Green Card status for relatives, even though no one involved actually lives in the United States. This tends to increase the Green Card commuters.

D. Similarly, it is possible to secure citizenship by being born to an American citizen, even though the new citizen has never lived in the United States. This tends to increase the number of commuting citizens.

E. Other elements of the immigration law, and its interpretation, lead to separations of families which otherwise could be united on this side of the border.

VI. Border crossers play an interesting role in a variety of federal programs.

A. They secure jobs, services and money, directly and indirectly, from many Federal programs.

B. Many border crossers do not meet their obligations to the U.S. Armed Forces or to the American tax collectors.

C. Employers of illegals (and to a lesser extent other border crossers) are less likely to comply with labor standards and social insurance laws than other employers.

VII. There are a wide variety of labor market conditions along the border, and border crossers have a differing impact in different places. The adverse impact appears to be the greatest at the eastern end of the frontier, and the least in San Diego (where commuters make up only 2% of the labor force.)

Summary of Recommendations

Generally the labor markets of the border are flooded with too many workers. In order to tighten these markets, in a humane way, we recommend:

1. Stop the process by which new Green Card commuters are created.

2. Start a process by which Green Card commuters' right to continue commuting would be examined yearly. In this context, establish wage rates below which commuters could not work (an adverse effect formula) but do this gradually to avoid wide-spread economic and personal disruptions.

3. In the same context, make sure that both Green Card workers and employers are living up to all relevant Federal and State tax and labor standards.

4. Create a financial reimbursement system roughly comparable to the land bank of the Department of Agriculture, to pay benefits to Green Card commuters who are denied the right to continue to commute.

5. Levy a special tax on those employing commuters.

6. Enforce the tax and draft laws on commuters, and social insurance and labor standards laws on their employers.

7. Develop and implement an economic development plan for the entire border area with the possible exception of San Diego.

8. Establish assisted migration programs, for both newly arrived ex-commuters, and residents wishing to move north.

9. Encourage employment discrimination in favor of residents.

10. Step up the INS drive against illegal entrants.

11. Change the immigration law to make sure that citizenship is not given to people who have not lived in the country.

12. Take steps to eliminate the employment of non-resident alien strikebreakers.

I. The Setting

A. This Border, and Borders Generally

This study is concerned with the more than 100,000 residents of Mexico who hold jobs in the border regions of the United States, and the impact this practice has on the American economy. Some of these workers are citizens, some are not; most cross the border legally, many do not; most cross the border twice daily, many less frequently.

This border is a long one, a peaceful one, and it marks perhaps the most dramatic dividing line between poverty and affluence in the Free World. There are many poorer nations than Mexico, and there are a few whose wealth, on some indices, equals or exceeds that of the United States. Generally, however, the poor nations and the rich ones are separated by other nations of middling wealth--except when they (like West Germany and Israel) share fortified frontiers with hostile neighbors.

The frontier between Canada and the New England States has some of these same characteristics on a smaller scale (witness Maine's mini-version of the bracero program, the annual influx of several thousand French Canadians to help harvest Aroostook County's potatoes). Another example would be the frontier between prosperous Venezuela and not-so-prosperous Colombia.[1]

Given the remarkable difference between the American and Mexican economies, coupled with the tradition of the Good

Neighbor policy and the resulting open border, it can be no surprise that America's prosperity has slopped over the frontier, and that Mexico's poverty has flowed into the United States.

With the persistent exception of San Diego, the border towns and counties are among the poorest in the Nation. The economic situation becomes progressively worse as one travels from west to east. Starr County, Texas, for instance, is the 18th poorest county in the United States; the 1960 Census showed that 75.2 percent of the 3,339 families in the county had incomes below the Social Security Administration's poverty level cutoff.[2]

Laredo must be the only city of 50,000 or more in the United States where 70 percent of the streets are unpaved. It is thunderously poor by a number of other standards as well. In 1959, for instance, it was the only Standard Metropolitan Statistical Area where the per capita income was less than $1,000 a year ($937) and where the per family income was less than $3,000 a year ($2,952). Laredo was the lowest income SMSA in the Nation on both bases, and a close second was the nearby Brownsville-Harlingen-San Benito SMSA where the per capita income was $1,007 and family income was $3,216.

Meanwhile, the highest income states in Mexico are those adjacent to the American border.

In 1959, according to Dr. Price's The Urbanization of

Mexico's Northern Border States, the average per capita income in Mexico was 3,270 pesos (or about $261) but in the nine major border municipalities it ranged from 5,136 pesos ($411) to 12,279 pesos ($982).[3] It is possible to make a rough per capita income comparison of eight Mexican border cities and the adjacent American communities, though the data is not exactly comparable. The statistics below suggest that per capita income in the Mexican city is generally less than half that of the city north of the border, and that the degree of prosperity on the U.S. side is usually reflected on the Mexican side, and vice versa.

3

TABLE I

1959 Per Capita Incomes in U.S. and in Mexican Border Cities
(in U.S. Dollars)

STATE/Cities	U.S. Per Capita	Mexican Per Capita
TEXAS		
Brownsville - Matamoras	$1007	$411
McAllen - Reynosa*	887	623
Laredo - N. Laredo	937	595
Eagle Pass - Piedras Negas*	801	446
El Paso - Ciudad Juarez	1553	603
ARIZONA		
Nogales - Nogales*	1554	709
CALIFORNIA		
Calexico - Mexicali*	1623	679
San Diego - Tijuana	2190	982

* Data are for U.S. border county: In other locations figures are for the Standard Metropolitan Statistical Area.

Source: Mexican data are cited by Dr. Price as being from Programa National Fronterizo (Mexico, 1969). U.S. data are from "Per Capita and Median Family Money Income, in 1959, for states, S.M.S.A.'s and counties," Supplementary Reports, PC (S1)-48, U.S. Bureau of the Census, Washington, 1965

B. A Little Geography

If the current U.S.-Mexican border were a line separating states in Mexico (or in the United States), most of the cities along it would simply not exist. The border created the border cities. San Diego, again, would probably be the exception.

The border has proved to be a tremendous attraction to Mexicans seeking to escape from poverty. To a much lesser extent the existence of the border has created economic opportunities on this side of the border. This lopsided attraction has created a string of international cities with much larger populations south of the border than north of it, again with the exception of San Diego. (Mexicali, for instance, had a population of 281,333 in 1960, while across the border, Calexico had 7,992. Matamoras had 143,043 people, while Brownsville had 48,040.)

The border, itself, from east to west, is a long and narrow river, a long line, a short stretch of river again, and then another arbitrary line. At no point is there a substantial natural barrier, such as the Pyrenees or Lake Superior.

The Rio Grande is grand in length, but not in width; much of the year much of it is dry, and it is no wider than 50 yards when it flows under the bridge at Brownsville, near its mouth.

The Lower Rio Grande Valley, from Brownsville to just west of Mission, has rich, irrigated soil. There is substantial

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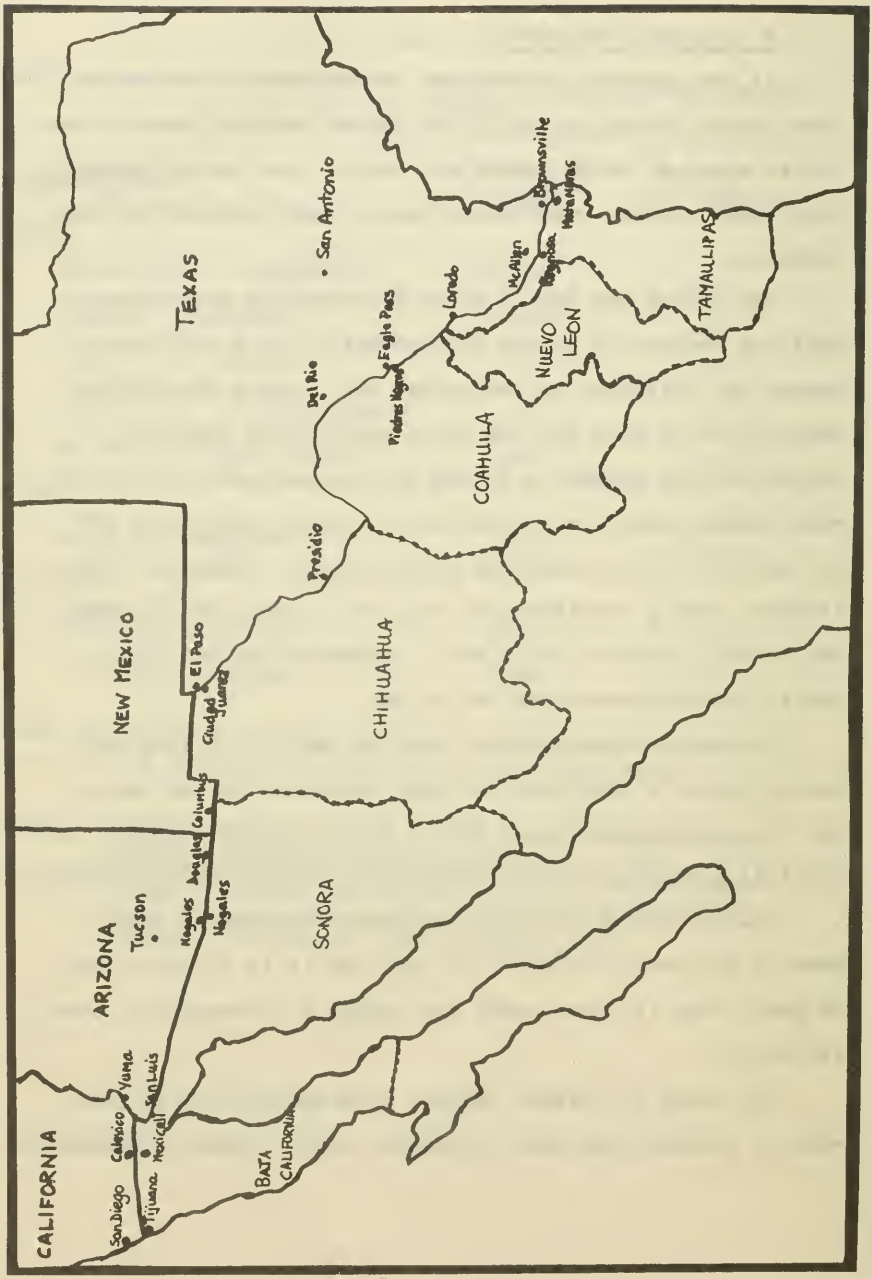
MAP: U.S. — MEXICAN BORDER



if less intensive agriculture between Mission and the Winter Garden area near Eagle Pass. Above Eagle Pass the hills become more pronounced, and the agriculture tends to be pastoral in nature. This stretch of the border includes the rugged Big Bend Country.

At El Paso the border leaves the river, and heads west through arid and mountainous country, along the southern boundary of the Gadsden Purchase, negotiated with Mexico in 1853. With the exception of clusters of population around the crossing points at Douglas and Nogales, the territory is essentially empty (and used for things like bombing practice ranges) until far western Arizona where irrigated agriculture again prevails.

At San Luis (which is the name of a major city in Sonora and a tiny one in Arizona), the border turns north and runs along the Colorado River for about twenty miles. The river itself, at this point, has been drained of its waters for the use of both Mexican and American farmers. Near Yuma the border turns west again, and runs straight to the Pacific, south of the lush irrigated farms of the Imperial Valley, right through the heart of the Mexicali-Calexico business district, and on over the mountains to the Pacific. Tijuana is adjacent to the U.S. border, and although an arm of the city reaches the border, downtown San Diego is a good fifteen miles north.

Four American States touch the border as do six Mexican States. Texas touches, from east to west, Tamaulipas (from

Brownsville to Laredo), Nuevo Leon (very briefly -- this Mexican state has no border crossing point within it), Coahuila and Chihuahua. The latter also touches New Mexico, and Sonora furnishes the rest of New Mexico's southern border, and all of Arizona's.[4] The Mexican State of Baja California adjoins the American State of California.

New Mexico will rarely be mentioned in this report, simply because there is very little commerce of any kind across its southern border. There are only two border crossing points, Antelope Wells (which is open forty hours a week) and Columbus (open 16 hours a day). Although there were substantial movements of both Mexicans and Americans across this border during 1916 -- when Pancho Villa captured Columbus and set off General Pershing's punitive mission -- the commuter traffic is minimal. At the last count 31 Green Card holders were commuting into New Mexico through this port of entry. There are also some workers, mostly farm laborers, employed in southern New Mexico who cross the border at El Paso.

The border itself is marked in a variety of ways. Most of the distance it is a river. Through populated areas, such as in Mexicali-Calexico, there is a 12-foot fence, lighted at night, with watch towers. Near less populated areas the border is a fence, but less impressive. The All-American Canal serves as the de facto boundary for a number of miles between Calexico and the Colorado River. In much of the desert and the mountains the border is not marked at all.

Since much of the data available on the border is collected by counties there is a list below of the counties touching Mexico. Like most such listings in this report, it is done from east to west.

TABLE II

Border Crossing Points

STATE/COUNTY	U.S. Port of Entry	Other Major U.S. City
TEXAS		
Cameron	Brownsville, Progresso	
Hidalgo	Hidalgo, Los Ebanos	McAllen
Starr	Rio Grande City, Romo, Falcon Heights	
Zapata	No port of entry	
Webb	Laredo	
Maverick	Eagle Pass	
Kinney	No port of entry	
Val Verde	Del Rio	
Terrell	No port of entry	
Brewster	No port of entry	
Presidio	Presidio	
Jeff Davis	No port of entry	
Hudspeth	Fort Hancock	
El Paso	El Paso, Fabens	
NEW MEXICO		
Dona Ana	Through El Paso	Las Cruces
Luna	Columbus	
Hidalgo	Antelope Wells	
ARIZONA		
Cochise	Douglas, Naco	
Santa Cruz	Nogales	

TABLE II - Border Crossing Points (continued)

STATE/COUNTY	U.S. Port of Entry	Other Major U.S.
ARIZONA		
Pima	Sasabe, Lukeville	Tucson
Yuma	San Luis	Yuma
CALIFORNIA		
Imperial	Andrade, Calexico	
San Diego	Tecate, San Ysidro	San Diego

Source: Compiled from Rand McNally World Atlas, 1967; letter to author from INS, February, 1969.

C. A Little History

It should be borne in mind that the location of the U.S.-Mexican border is a legacy of the aggressive actions of the Anglo-Saxon population of the United States during the 19th century; that in a very real sense the area north of the border is conquered territory; and that the Mexican American population along the border has been treated (and too often, continues to be treated) as a conquered people.

Although a majority of the Spanish-surnamed residents of the border counties are first and second generation immigrants, they are not immigrants in the same sense as the Swedes and Germans, for instance, who came to this country a hundred years ago. They have simply moved across the border which runs right through the middle of what used to be the Republic of Mexico. They are not leaving their own nation and crossing a body of water to live in an entirely new land. They know this, they know that Old Mexico is nearby, and they, understandably do not assimilate in the same way as immigrants who crossed the Atlantic.

The Anglo newcomers, unlike the Portuguese and the Spanish in the New World, did not believe in intermarriage; their tradition - most of them were southerners - called for the segregation of other peoples (such as Indians and blacks) and not for integration. What might have been a happy blend of Anglo and Hispanic cultures and peoples has simply not occured.

D. Demography

As noted before, there are unequal population pressures on the U.S.-Mexico border, with the movements of people reacting to economic pulls and pushes.

Mexicans flock to the border from the nterior, hoping to get into or at least near the American affluence. Most do not cross the border, however, and as a result, the six northern States of Mexico are the fastest growing region in that nation.

Between 1940 and 1950 Mexico's total population increased by 31 percent, with the northern region increasing by 44 percent; in the next ten years the national rate of increase was 35 percent and that of the region was 47 percent. Dr. Whetten, in his report to the U.S. Select Commission on Western Hemisphere Immigration, estimates that the increase between 1960 and 1970 will be a staggering 42 percent nationally, and 57 percent in the six northern states (Tamaulipas, Neuvo Leon, Coahuila, Chihuahua, Sonora and Baja California).[5]

Dr. Price says of this growth rate, "We get some perspective of how great this growth is when we realize that Latin merica generally has the highest population growth rate of any continental size area in the world and that Mexico has probably the highest growth rate in Latin America. Thus, with an average annual growth rate near 5 percent, northern Mexico is probably the fastest growing region of its size in the world today."[6]

The regional growth rate reflects the nation's high birth rate (about 44 per 1,000) and its low death rate as well as the internal migration to the north. It does not reflect any migration into the northern area from other nations, as this is a minimal consideration.

The growth rate among the northern States of Mexico is uneven, with the most impressive growth rates being recorded in Baja California, and the least in Coahuila (which is opposite the Eagle Pass-Del Rio part of the Texas frontier). During the three decades covered by Dr. Whetten, Baja California's rates of increase have been 187 percent, 129 percent and are expected to be 112 percent in 1960-1970, while those in Coahuila are estimated at 31 percent, 26 percent and 33 percent, well below the Mexican national average.

In terms of total population, the northern border states grew from 2,618,000 in 1940 to 3,763,000 in 1950, to 5,541,000 in 1960 with the 1970 total expected to be in the neighborhood of 8,670,000.

The border, however, remains a substantial barrier, and most of the northward thrust of the nation's population movement stops right there. During the decade 1951-1960, while the Mexican population was growing by 9,132,000, only 299,811 residents of Mexico immigrated to the United States, thus accounting for only a little more than three percent of population expansion. During the first eight fiscal years

of this decade the average immigration to the United States was 42,916, while the Mexican population was increasing at an estimated rate of 1,500,000 a year. The imposition, on July 1, 1968, of a 120,000 limit on Western Hemisphere immigration will reduce the rate of Mexican entries into the United States, while the rate of Mexican population increase, in all likelihood, will continue to grow.

The remarkable differences in prosperity, the great northward population pressure on the border, and narrower opportunities to immigrate, particularly for the unskilled, naturally have caused many Mexicans to cross the border illegally, a subject which we will discuss at greater length a little later in this report. The same economic and demographic pressures underline the significance of the commuter traffic to the Mexican Government.

On the American side of the border, however, with the exception of the counties containing San Diego and Tucson (not a border city, but in Pima, a border county), people tend to move away. This trend is obscured by the population growth of those two cities and by the substantial natural increase caused by low death rates and high birth rates.

It would be helpful to cite a few figures, first on gross population increase. Between 1950 and 1960 the population of the 23 counties touching the border (plus Grant in New Mexico and Culberson in Texas which are extremely close to the border) increased from 1,517,629 to 2,342,330, for a percentage gain of 56.3 percent. More than 58 percent of the

total increase, 864,704, was in the natural growth category; during this decade there was an excess of births over deaths of 502,375.

The net in-migration for this decade was 362,329, but the total for Pima (Tucson) County and San Diego combined was 406,342, indicating a net out-migration in the other 23 counties of 44,013.

Between 1960 and the estimates made in 1967, the rate of growth slowed from 5.63 percent to 3.44 percent a year. This reflected among other things, a much slower rate of in-migration.[7]

Between 1960 and 1965 it is estimated that net in-migration amounted to 24,600, a fraction of the 362,329 in-migrants in the previous ten years. Again the increase hid substantial movements out of the other twenty-three border counties (76,100).

Birth rates along the border tend to run well above the U.S. average. In 1965, for instance, the U.S. average was 19.4 births per 1,000 population and in all but five of the 25 counties the birth rate exceeded the national average, running to as high as 38.1 in Val Verde County and 46.5 in Maverick County, both Texas. (The figures in these counties, and perhaps some others, are probably inflated by the practice

of Mexican women having their babies in the United States. The mothers are attracted by better medical care and by the U.S. citizenship their child receives.)

The exceptions to the general rule are interesting, they are the counties containing San Diego and Tucson, both of which are, by every standard, more in the mainstream of U.S. society, and three sparsely populated counties in Texas, (Terrell, Hudspeth and Culberson) where there are no hospitals, where medical reporting techniques leave much to be desired, and which lack major border crossing points.

On the other hand--reflecting a young population rather than superior medical facilities--border death rates are below the national average. That average in 1965 was 9.4, per 1,000 population and all the border counties but two had lower rates, the exceptions being Luna County, New Mexico, 9.9 and Kinney County, Texas, 11.7. The low county, for some reason, is Zapata, where 2.6 was reported (again probably due to a feeble reporting system).

The border population is a young population, with San Diego and its growing retirement communities presenting the usual exception to the rule. Generally, in the United States 64 percent of the population was under 40 years of age and 36 percent was over 40 years of age during the 1960 census. On the border the figures were 72 percent and 28 percent, going as high as 78 and 22 percent in Dona Ana County (New Mexico) and 77 and 23 percent in El Paso County.

Generally, in the United States 31 percent of the population is 14 and under; in the border area the average is 34 percent, with the range being from 30 percent for San Diego county to 42 percent for Texas' Hidalgo county.

As far as ethnic identification is concerned, the people on this side of the border -- again barring San Diego -- are about half Mexican American and half Anglo.

The border counties east of San Diego had a total population in 1960 of 1,339,322 (with San Diego County's population being 1,033,011). The Census Bureau, using its imperfect concept of White Persons of Spanish Surname counted 595,656 in this category for these counties, or 44.5 percent of the total.

Given the Census Bureau's admitted problems in counting members of ethnic minorities, it is probable that a substantial number of Mexican Americans were simply omitted. With this thought in mind we will use an estimate that roughly half of the population east of the San Diego County line is of Mexican descent. The Mexican Americans tend to be considerably poorer than the border population as a whole.

Other ethnic groups play a role along the border, but a very minor one. In 1960 there were 66,000 blacks in the border counties; with 40,000 of them in San Diego. There

were smaller concentrations of about 8,000 each in Tucson and El Paso. The Census Bureau also counted 14,000 Indians, virtually all of whom lived in Pima, Yuma and San Diego Counties, and 21,000 others, presumably Orientals, two thirds of whom lived in San Diego.

The distribution of population along the Mexican border is a very uneven one, with almost half of the border residents living in the county least affected by the border- San Diego. The total for California in 1960 was 1,105,116, which also includes 72,105 residents of Imperial County.

The four Arizona counties had 377,742 residents in 1960, most of these people live in Tucson, which is 65 miles from the border. The four New Mexico counties on or near the border had 93,448 residents in 1960, with most of them living in Dona Ana, adjacent to El Paso.

Texas' 15 border area counties had 796,027 residents in 1960, with most of them being at the two extremes, either in El Paso County (314,070) or in the Lower Valley (Cameron County, 151,098, and Hidalgo County, 180,904). In between the major concentrations of population - all border crossing sites - are Laredo, Eagle Pass and Del Rio; the counties concerned, Webb, Maverick and Val Verde, having populations of 64,791, 14,508, and 24,461. Many of the smaller nine counties, some with populations under 3,000, lack border crossing sites.

Perhaps the most significant set of figures is the populations of the major border crossing sites. It should be

noted that with the usual exception, San Diego, the city south of the border is always larger than the one north of it. The major pairs of twin cities are noted in the table below.

TABLE III

Major Crossing Points - East to West

U.S. City	Population	Mexican City	Population
Brownsville	48,040	Matamoros	143,043
McAllen	32,728	Reynosa	134,869
Loredo	60,678	Nuevo Laredo	96,043
Eagle Pass	12,094	Piedras Negras	48,408
Del Rio	18,612	Villa Acuna	22,317
El Paso	276,687	Juarez	276,995
Douglas	11,925	Agua Prieta	17,248
Nogales	7,286	Nogales	39,812
San Luis	100*	San Luis	42,134
Calexico	7,992	Mexicali	281,333
San Diego	573,224	Tijuana	165,690

Source: See Footnote 8

The previously mentioned out-migration from the border counties reflects both the basic poverty of the area, and the unsuccessful competition by American residents for the jobs held by more than 100,000 residents of Mexico. Much of the border, like much of the rural South, is characterized by an economic base which is expanding less rapidly than its population. Hence the pressure to move out.

*Author's estimate

Yet this pressure is resisted. Perhaps such a generalization will be hard to support, but it appears that the poor resident of the border (and it is the poor who do most of the migrating) has a greater desire to remain in his home area than the poor black of the south. The black probably feels equally alienated from the dominant society in north and south, and his movement has no linguistic overtones. The Mexican American, on the other hand, can operate without complete command of English along the border, and he will move into a much less familiar social situation if he leaves the border.

One result of the interplay of these factors -- the desire to stay along the border and the necessity to secure some income -- leads to a compromise, a compromise which supplies most of the Nation with its migrant farm workers. Families leave the border, particularly the poorest part of the border, to work during the harvest season in the north, returning home for the balance of the year. Northern agricultural interests are well aware of the relation between the flow of commuters across the border, and the exodus of the migrants, and are outspoken defenders of the current system.[9]

E. Counting the Commuters

If a phenomenon is important in this country - such as the number of glass bottles produced annually, or the number of cans of peas left at the end of the season - then it is duly recorded for posterity.

If a Government agency wants to prove a point, or simply report impressive work-load statistics, the data pours forth.

On the other hand, if the desire is lacking, so are adequate statistics, and this is the situation with regard to the Green Card commuters -- and even more so with citizens living in Mexico and working here.[10]

The arrival of a human being at the Nation's gate is not recorded, except under exceptional circumstances. There is no normal, on-going system for gathering such information, and when it is collected, it is usually by a combination of spot checks and estimates.

Members of the United States Senate have suggested that INS install a punch card system of some kind, so that aliens could check in and out of the country on a giant computer which would note, among other things, when and where the alien entered the Nation. No such device is in being, or even requested by the Service.[11]

The earliest count available for the number of commuters was made during the depression, when jobs along the border were particularly scarce, and when there was a considerable

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outcry against the commuter practice. In 1933 there were 52,551 intermittent and 29,963 active commuters along the southern border, with the intermittent ones being people crossing the border not more than three times a week and the active ones crossing four or more times a week.[12] These statistics suggest a commutation pattern, roughly comparable to the current one.

In 1961 INS ran one-day spot checks and produced the statistics in Table IV.

TABLE IV

Alien Commuters in 1961

Port of Entry	Number
Brownsville	135
Laredo	3,000
Eagle Pass	1,800
El Paso	2,500
Nogales	1,132
Calexico	183
San Ysidro	4,771
TOTAL	13,521

Source: INS

Four more one-day counts were taken in May, 1963 and January 1966, with the results that can be seen in Table V.

TABLE V

Alien Commuters - Surveys of 1963 and 1966

Major points of entry	Jan. 17, 1966 Total	Jan. 17, 1966 In agriculture	Jan. 11, 1966 Total	Jan. 11, 1966 In agriculture	May 17, 1963	May 8, 1963
TEXAS						
Brownsville	2,032	226	2,552	619	1,796	1,729
Hidalgo	1,163	805	1,000	511	366	532
Roma	208	187	146	125	89	108
Laredo	2,581	175	2,239	209	2,490	2,382
Eagle Pass	1,604	536	2,195	901	1,586	1,037
Del Rio	513	99	489	82	237	314
Fabens	274	219	267	207	307	316
*Ysleta	248	137	266	115	-	-
*Cordova	2,932	80	3,455	164	-	-
Santa Fe Street Bridge(El Paso)	8,592	590	7,605	944	13,492	13,332
ARIZONA						
Douglas	418	96	470	93	307	288
Naco	127	20	134	19	202	134
Nogales	1,614	108	1,392	53	1,464	1,854
San Luis	4,234	3,583	3,654	3,024	1,239	1,038
CALIFORNIA						
Calexico	7,616	6,468	8,098	7,324	4,692	5,342
San Ysidro	9,281	3,967	8,460	3,134	5,855	5,374
MINOR POINTS OF ENTRY	250	161	219	129	87	101
GRAND TOTAL	43,687	17,457	42,641	17,653	34,223	33,867

Source: INS - from report of the Select Commission on Western Hemisphere Immigration, Washington D.C., 1968.

* El Paso crossing points.

The increased number probably represented a more sophisticated counting system, as well as a greater number of commuters. Between 1961 and 1966 (on January 1, 1965, to be exact), Public Law 78, which authorized the bracero program, became a dead letter, and this substantially increased the number of border crossers working in agriculture, particularly at San Luis and Calexico.

All of the counts in the 1960(s) had been based on calculations made by men at the gates, on a given day -- which may or may not have been a representative day. Finally,in the fall of 1967 INS took a different and more thorough approach to the problem.

During November and December of that year, INS started a process of placing grommets (metal rings) into the Green Card held by people working in the United States and living in Mexico. During those months the Service took away a worker's Green Card, and told him he could have it back, that evening, when he returned to the border with an INS form (SW-426-10) which was to be filled out by the employer.

All of this did <u>not</u> work out automatically, and the procedure faced a number of difficulties. For instance, on the first day of its implementation, at the busiest crossing point, the Santa Fe Bridge, which operates one-way into downtown El Paso, the word quickly spread into Mexico that

the Service was taking away workers' Green Cards. As many as 1,000 to 2,000 workers watched and waited on the Mexican side of the bridge, to see what was happening. Many of them simply did not cross that day.

Since the grommeting was taking place at a time when there was some public controversy about the subject (including a number of criticisms of the commuter system at the recently concluded Cabinet Committee Hearings on Mexican American Affairs, at El Paso), many commuters, having read accounts of the Hearing in the Mexican press, feared that a grommeted Green Card was just one step away from no card at all.[13] Understandably they took steps to avoid the grommet.

Many workers just stopped crossing the border, during November and December, 1967, the period of the major grommeting activity. Others moved into the United States either temporarily or permanently. Still others changed their working and living patterns, so that they could cross during the middle of the day, or just once a week. Others later deliberately destroyed a grommeted card in the hopes that INS would give them back an ungrommeted one.

Despite all these attempts at evasion, and despite the built-in dependence of the system on individual judgments of harassed men at the gate - who often face traffic of New York subway rush hour proportions - it is the most thorough enumeration made to date. The port-by-port results follow:

TABLE VI

November-December 1967 Count of Green Card Commuters

Texas	
Brownsville	1,917
Progresso	50
Hidalgo	937
Roma	73
Laredo	2,669
Eagle Pass	1,635
Del Rio	317
Presidio	24
Fabens	279
Fort Hancock	53
El Paso#	11,760
New Mexico	
Columbus	30
Arizona	
Douglas	380
Naco	94
Nogales	1,118
Sasabe	3
San Luis	3,553
California	
Andrade	3
Calexico	7,690
Tecate	56
San Ysidro	7,535
TOTAL	40,176

Includes Ysleta and Cordova

Source: INS

Since that time, the Immigration Service has made an effort to keep the grommeted cards up to date, giving -- after an investigation -- ungrommeted cards to people who have moved to the United States, and grommeting cards of those who are found to be commuting without them.

The latter process is always a painful one, and is

sturdily resisted by the commuter, who will often come up with a variety of reasons why his card should be left in its current, pristine condition. I have seen this at both El Paso and Brownsville, and it usually entails a long dialogue before the deed is done.

The most recent INS totals for the number of grommeting cards is contained in Table VII.

TABLE VII

August, 1969 Count of Green Card Commuters

Texas	
Brownsville	2,306
Progresso	82
Hidalgo	1,063
Roma	105
Laredo	3,312
Eagle Pass	1,968
Del Rio	132
Presidio	45
Fabens	326
Fort Hancock	54
El Paso#	13,140
New Mexico	
Columbus	31
Arizona	
Douglas	496
Naco	112
Nogales	1,371
Sasabe	7
Lukeville	1
San Luis	3,616
California	
Andrade	14
Calexico	8,788
Tecate	66
San Ysidro	10,841
TOTAL	47,876

Includes Ysleta and Cordova

Source: INS

At the time of the intensive grommeting operation, INS had an opportunity to collect much useful data from the Green Card holders (who would have been happy to fill out a pretty substantial Government document in order to get their cards back). The Service merely asked the commuters their name, address in Mexico, occupation (their own definition of it), their employer's name and address, their A-number (alien registration number), and the date that they secured their current job. The Department of Labor, at the time, tried to convince the INS to collect wage information as well, but this was not done.

The commuters' application forms were copied by the Labor Department -- all 40,176 of them -- and analyzed in terms of occupations and locations in a very useful article in Farm Labor Developments[14], a departmental publication.

Whereas there has been some steadily improving data on the Green Card commuters, the information on commuting citizens is quite inadequate. The citizens crossing the border played no role in the 1967 count, and the most recent information on this subject dates back to January 17, 1966, when commuting citizens were last counted. The statistics collected then, dealing with 18,259 citizen commuters, are in Table VIII.

TABLE VIII

Citizen and Alien Commuters
(January 17, 1966 Survey)

	Total	Mexican aliens	U.S. citizens	
			Number	Percent of total
Texas:				
Brownsville	3,503	2,032	1,471	42
Hidalgo	2,561	1,163	1,398	55
Laredo	3,715	2,581	1,134	31
Eagle Pass	2,710	1,604	1,106	41
Del Rio	831	513	318	38
* Cordova	4,290	2,932	1,358	32
* Santa Fe Bridge	12,913	8,592	4,321	33
Arizona:				
Douglas	587	418	169	29
Arizona—Continued				
Nogales	1,882	1,614	268	14
San Luis	4,858	4,234	624	13
California:				
Calexico	9,957	7,616	2,341	24
San Ysidro	12,333	9,281	3,052	25
Total	60,140	42,580	17,560	29
All other areas	1,806	1,107	699	39
Total	61,946	43,687	18,259	29

Source: INS (Reproduced from Report of the Select Commission on Western Hemisphere Immigration, Washington D.C.1968)

* El Paso crossing points.

There is not much earlier information on this subject. In his thesis on the commuters, Dr. Lamar Babington Jones says that a 1959 count of commuters, taken at El Paso by the INS, showed 6,481 citizen commuters (and 9,799 Green Card holders). This is a higher figure for citizens by about a thousand than the 1966 count.[15].

Both the counts we have in hand, 47,876 for the Green Card holders, and 18,259 citizens, must be regarded as absolutely minimal totals.

As far as the grommeting operation goes, it is clear that all conceivable forces tend to minimize this count. Only when the immigration officer at the border is both alert and aggressive, does he start the process of getting this card grommeted. The commuter's immediate reaction is to protect his card, and do and say whatever he has to, to avoid the grommet.

The citizen count was a one-day operation, and any one-day count is sure to miss a substantial number of citizen commuters who are active in that month. Further, there is no reason to believe that there has been any reduction of the total number of citizen commuters, and some reasons to suggest the contrary.

Finally, all of these counts dealt only with commuters who crossed the border legally, and on a daily basis. The flow of weekly commuters (who, predictably, cross early on Monday morning and late Friday afternoon and evening) was not calculated, nor, obviously, was the flow of seasonal workers, who may not cross the border more than twice a year. The illegal crossers, and those who crossed with a border card and then worked in violation of it, were not enumerated either. (There is also a small number of people who can cross the border legally but who opt to swim the river, between Hidalgo and Rio Grande City, because it is such a long way around when one uses the bridges at those cities.)[16]

Bearing all this in mind, the Nathan Report's estimate of 100,000 border crossing workers, legal and illegal, must be viewed as a conservative one.[17]

There are a variety of reasons -- in addition to research oriented ones -- including fraud detection, income tax collection and the control of illegal strikebreakers, to suggest that a more sophisticated method of commuter control be established. This will be discussed in more detail later in this

report. It is enough to say, now, that far too little information is available on the role played by legal trans-border workers, without mentioning the seas of ignorance that surround the activities of the illegal ones.

F. The Economics of the Border

The economics of America's southern border are fascinating, and totally different from those of the northern border.

The area is a poor one, and probably always will be so.

The natural resources in the border counties are, at best, sparse. There is some copper and some oil and natural gas. There is fertile soil, but it needs irrigation (which means a combination of rainwater which falls elsewhere in the Nation, and dams which have been built with Federal subsidies).

There is the trade with Mexico, which is very important, though much of the retail trade would dry up if Mexico enforced its own customs code.*

There is some manufacturing, but it tends to be heavily military or space-oriented in San Diego, and dominated by easy-to-move apparel manufacturing plants east of San Diego.

And then there is the Federal Government, which in recent years has been pouring a disproportionately large share of its expenditures into the border counties.

This part of the American economy which appears shaky to us, however, appears to be heaven to the Mexican man in the

* Mexican border officials routinely do not collect customs duties on a wide variety of U.S. produced goods brought into the border zone. If these heavy duties were collected, American retailers would suffer a sizeable loss of business.

street, and consequently there is a heavy build-up of population on the other side of our border.

The northern border -- between nations of roughly equal prosperity -- looks like a cross-section of the American economy, rather than one of its ailing parts. There are cities with heavy industry, Detroit and Buffalo, there are fertile fields needing no irrigation, there are small towns, woods and mountains, but no series of twin cities at the crossing points, and no seasonal departures of the very poor seeking work elsewhere.

It is on the southern border -- where jobs are scarce -- that we find the substantial numbers of commuting, low paid foreign workers, complicating an already weak economic situation, complicating it for resident American workers, but simplifying it for many of those in the role of employer.

Currently things are going relatively well on the border, (for the border), because of the Nation's general prosperity, and because of a variety of decisions made elsewhere in the world, decisions made largely without any thought about their effect on the border.

The war in Vietnam, for instance, is extremely important economically to seven of the border counties.

The space program has been very helpful to San Diego and Dona Ana Counties.

The White House decided to make Laredo a test tube in the War on Poverty, and the money flowed into Webb County.

The same White House decided that Laredo, San Diego, Eagle Pass and Tucson should be Model Cities (whether Laredo wanted to be one or not), and the benefits from those decisions are just starting to make themselves felt.

But if peace should occur -- or if Defense Department dollars started coming to the border at the rate that they went to the average American county -- or if the Government cuts the flow of domestic Federal money to the border -- the border, already depressed, will face an economic reversal of drastic proportions.*

It should be borne in mind that the border, though poor by every other criteria, has been rich in its friends in Washington. From John Garner's election as Speaker of the House in 1931 until Lyndon Johnson, Carl Hayden and Stewart Udall left office in January, 1969, the border has enjoyed disproportionate influence on the Federal Government. Garner, who represented 21 counties in south Texas, including the border region from north of Eagle Pass to the mouth of the Rio Grande, went on to become Vice President, and saw to it that a protege of his, another Texan, Sam Rayburn, became Speaker. Lyndon Johnson's ties with the border were close ones, particularly after the generous support received from south Texas during his toughest

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* The Nathan Report states this thought in this way: "Any cutback in the rate of growth of Federal, State and local funds, taken as a whole, would be a serious setback to the affected areas."

election contest, the senatorial runoff in 1948. Meanwhile, Senator Hayden was, for 16 years, Chairman of the Senate Appropriations Committee, and a highly successful advocate of federally supported irrigation programs in the West. And, during the last eight years, a former border Congressman,Stewart Udall, presided over the Department of Interior.

Now all these men are gone, and the border will have to face a Washington perhaps less inclined to spend money on airfields in Laredo, beautification projects up and down the Rio Grande, and dams and canals for Arizona farmers.

Two other general observations about the area's economy can be made.

In the first place, most of the economic activity along the border has been in the very fields where workers are traditionally weak and employers are traditionally strong. Agriculture, small retailing, and the military all fall into this category. On the other hand, heavy manufacturing with its more even distribution of industrial power, is largely absent from this border.

Secondly, much of the economic activity along the border is in those fields where Adam Smith economics still prevail. With the exception of a price-supported cotton crop of declining importance, most of the agricultural products are those without price supports, such as cattle and fresh

fruits and vegetables. There is price competition among the small retailers and among those engaged in tourist-oriented and other service trades. Much of the manufacturing falls into the garment and food processing categories, both of which tend to be very competitive.

It is not surprising that individual employers, facing tough price competition in a depressed market, should turn around and seek the least expensive workers in a depressed labor market.

It would be useful, at this point, to review the border's sources of income.

The border counties' farm production was valued at $636 million in 1964 (the year of the last Agricultural Census), with almost half of this, $286 million, representing livestock. Field crops accounted for $210 million, with cotton being the leading component. The border's vegetables were worth $92 million that year, and fruit and nuts brought in $32 million. Only the last two categories are labor-intensive now that cotton harvesting has become mechanized. Annual average employment in 1967 was 72,000, but this average hides remarkable variations from season to season.[18]

Manufacturing value added in the border counties, during 1967, was $971 million, involving a payroll of $739 million and a work force of some 109,000 people. Only 48,000 of these workers were east of San Diego, however, and most of them were concentrated in Pima and El Paso Counties. The major industries were aircraft and ordnance, concentrated in San Diego, employing 32,000, food processing, employing 14,000 in the

border counties, and apparel employing 15,000 throughout the area.

The border's mineral production in 1966 was $430 million, about three quarters copper (in Arizona and New Mexico) and virtually all the rest being oil and gas in Texas. This activity produced at least 10,000 jobs in 1967, many of them in border counties but distant from the border itself.

Retail sales, so important in so many border counties, were estimated at $3,797,000,000 in 1966 by Sales Management's survey and involved an employment estimated by the Nathan Report as 147,000. This is an important source of employment for the border crossers.

None of the activities mentioned above produced the employment which government generates. During 1967 there were 180,000 civilians working for all levels of government along the border, and an equal number of military men stationed in the area. The government's civilians made up 21% of the civilian work force in the area; about 60% of them were local employees - many being funded through Federal aid grant programs - and the other 40% were direct Federal hires.

Calculations have been made by the Office of Economic Opportunity on per capita Federal expenditures per county, and although there are certain inherent weaknesses in the OEO analysis, the results for the border area are noteworthy. In the border region the Defense Department spent an

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average of $606 per capita,in fiscal year 1967,compared to a national average of $290 per capita. The seven counties above the national average were Dona Ana (N.M.), $1,100; San Diego (Cal.), $870; Val Verde (Texas), $786; Cochise (Ariz.), $731; El Paso (Texas), $714; Yuma (Ariz.), $411; and Pima (Ariz.), $319. The thumping military expenditures more than made up for the border's relative lack of success in the non-Defense arena, where average per capita non-Defense Federal expenditures were $427 against the national average of $563. In summary, $1033 in Federal funds were spent per capita along the border, compared to $853 nationally. Significantly, the three counties of the Lower Rio Grande Valley had total rates of expenditure well below half of the region's average. Starr County had $342 per capita, Hidalgo $333 and Cameron was recorded at $411.

The other major source of employment in the region were the various service occupations -- ranging from physicians and attorneys to bartenders and maids. The Nathan Report estimates this work force to be in the neighborhood of 150,000 to 160,000. It should be remembered that the tourist industry produces much employment in this category, and secondly, that there is an extradordinary high level of employment of domestic servants along the border (because of the ready availability of poverty-stricken Mexican women willing to do this work.)

The American and the Mexican economies in the border region have tremendous effects on each other. Economic restrictions

are relatively relaxed in concept, and considerably more relaxed in practice. It is useful to look at this from both the micro- and the macro-points of view.

The individual consumer, living on either side of the border, routinely makes purchases on both sides of the border, no matter where he works. A family's bi-national shopping list might look like this:

Buy in Mexico	Buy in U.S.
Services, including	Manufactured goods
Entertainment	Clothes
Physician's services (particularly for Mexican Americans)	Cars
	Car parts
Dental work	Appliances
Some auto repairs	Canned goods
Haircuts	Poultry
Staples	Eggs
Sugar	American liquor+
Rice	
Most vegetables	American cigarettes+
Tropical fruit*	
Beef	
Baked goods	
Bottled beverages	
Liquor*	
Beer	
Soft drinks	
Furniture	
Prescription drugs*	

* There are some restrictions on bringing these items into the United States.

\+ If bought at a taxfree store at the border, these may be taken into Mexico for use there.

In addition to legitimate items, many goods and services illegal in the United States can be secured more easily in Mexico, such as bullfights, gambling, prostitutes and narcotics.

Since any American can cross into Mexico, usually without showing any documentation at all, and since it is relatively easy for a Mexican national to secure the 72-hour border crossing pass issued by the INS, there is a great deal of cross-border shopping. This is done both by year-round residents of the area as well as by tourists from both countries.

The Mexican trade, both wholesale and retail, is vital to the American border cities, but statistics on the subject are few and far between. It is also true that the importance of the Mexican retail trade varies remarkably from place to place, such as from San Diego, which could do without it easily, to tiny San Luis, the town in Arizona just on the other side of the border from San Luis, Sonora.

American San Luis is almost a caricature of a border city. There cannot be more than 20 residential units there, yet the trade from commuters and other residents of Mexico has produced a shopping center whose volume would challenge that of one of the biggest new complexes in a wealthy American suburb.

The one street in town is lined with large bustling appliance and clothing stores, and a massive supermarket. In response to my question, regarding the extent that the merchants (who tend to live in Yuma, 25 miles to the north) relied on trade with residents of Mexico, the three of them I met immediately estimated "99 and a half percent."

Eagle Pass and Laredo tend to rely heavily on the Mexican trade, both being on major highways into the interior. The Nathan's Report's statistics suggest that close to two-thirds of Eagle Pass' retail trade comes from Mexico.[19] Laredo's downtown area is almost one continuous clothing store, and the streets are full of carpetbag-carrying Mexican nationals many of whom are involved in smuggling clothes past Mexican customs for resale.

In addition to the sales of clothes to smugglers, Laredo has another, far classier kind of clothing trade. Wealthy Mexicans, from as far away as Monterrey and beyond, come to impressive Laredo establishments to buy $200 suits. One such place, as a matter of fact, has a Rolls Royce which it uses to pick up favored customers.

Laredo, incidentally, has the distinction of being the only American city where apparel sales volume exceeds that of auto sales.

The one city where relatively hard data is available is El Paso. The Real Estate Research Corporation, in a study conducted for El Paso's impressive City Planning Department, estimated that in 1965 shoppers' goods sales of $28.8 million could be attributed to the Mexican trade. This would account for 20 percent of the El Paso metropolitan area's sales in this category, and about 30 percent of the sales of downtown El Paso.

If the American cities are dependent for some of their livelihood on the trade with Mexico, the Mexican cities are even more dependent on American trade, American tourists and American jobs. Again, there is only the barest data available.

In its study of El Paso and Juarez, the Real Estate Research Corporation estimated that two thirds of the personal income of residents of the Mexican city came from the U.S. side of the river, divided roughly equally between money spent by American tourists (and other visitors) in Juarez, and by money earned in the United States by the commuters.

Similarly, in 1960, Programa Nacional Fronterizo, the arm of the Mexican Government which concerns itself with the border, estimated that 19 to 36 percent of the personal income in nine Mexican border towns came from commuters' wages.

TABLE IX

Mexican Border City Wages Earned in the United States

Mexican Border City	Percent of Total 1960 Wages Earned in U.S.
Matamoras	30
Reynosa	22
Nuevo Laredo	31
Piedras Negas	23
Ciudad Juarez	36
Nogales	19
Mexicali	21
Tijuana	33

Source: Programa Nacional Fronterizo.

Just as San Diego is the usual exception to the rule on the northern side of the border,so is the little border city of Tecate,33 miles to the east of San Diego. A minor border crossing point, Tecate is a city of 10,000 which has a solid industrial economic base, higher per capita income than either Juarez or Mexico City, virtually no American tourists and, in 1969, a grand total of 66 commuters.[20]

G. The Mexican Interest

The Mexican Government, on the state and federal level, looks upon the commuter traffic as a good thing, since it brings money and employment into the border towns.

A few Mexican officials see in the traffic some of the elements which helped divide the Mexican governmental position on the bracero issue -- for it, like the bracero program, can be viewed as an affront to the nation's pride. (Mexican nationals, after all, are being attacked by others of Mexican descent for lowering wages, and breaking strikes; and one does not like to admit that one's own citizens have to go elsewhere to find a job.)

Some Mexican local officials, closer to the scene, see a number of other and more local problems, as well.

The parallel with the bracero program is an interesting one, if more than a little misleading. From the Mexican point of view the bracero program was a nation-wide affair, with workers from all over the country being selected for inclusion. The commuter traffic involves only people living right on the frontier.

Further, the bracero program involved workers who were full-fledged Mexican citizens, while the commuter traffic consists of people who have already taken American citizenship,or have indicated a willingness to get rid of their Mexican citizenship. (Our survey indicates that Green Card commuters, though eligible to vote in Mexican elections, practically never do so.)

Both of these factors -- regional impact and nonidentification with the nation by the commuters -- would seem to tend to make the government less interested in preserving the system.

Further, the numbers involved are not on the same scale as the bracero program, which supplied work for as many as 500,000 men at the height of its operation.

On the other hand, the commuter, although, like the bracero generally at the bottom of the American economic scale, does have freedom to seek other work which the bracero lacked; he can join a union if he feels strongly about it (10.75 percent of those we interviewed are union members); and he is subject to the same laws and regulations as other workers. In short, from the Mexican point of view, there are fewer abuses of Mexican nationals and fewer scandals than in the bracero program.

And, as then Assistant Secretary of State for Latin America, Covey Oliver, stated before Senator Edward Kennedy's hearings, the established commuters appear to have more influence with the Mexican Government than the braceros.[21]

Some local Mexican officials view the commuter with some disdain, as neither a good Mexican nor a good American. As far as they are concerned he doesn't vote anywhere; he spends more money in the United States than Mexico; he doesn't pay much of any taxes anywhere; and yet he and his children are

major burdens to the city government. (The Mexican local official who spoke most freely along these lines with us had a much higher regard for two other sources of dollars, tourists and the relatively new phenomenon of American-owned assembly plants just south of the border. These factories process parts made in the United States and then ship the finished product back across the border; both U.S. tariff regulations and low Mexican wages tend to encourage this activity, which is usually discussed as the "twin plant" concept.).

Our survey of the commuters support some parts of this position, the non-voting, the tendency to spend at least half of commuter's earnings in the United States, and the number of children of commuters attending Mexican schools (an average of 1.5 per household).

Along the same lines, the Real Estate Research Corporation's report states, "In contrast (to benefits from tourists) the fact that many citizens of Ciudad Juarez have employment within the United States contributes relatively little directly to the economic stature of Ciudad Juarez itself, although this certainly is to the benefit to those individuals so employed. This is, in large part, because many of these dollars are returned to the U.S. through the purchase of both shoppers goods and food items in El Paso."[22]

Occasionally there are reports of Mexican officials complaining about commuters being exploited by American businessmen. One such would be a statement by the then Secretary

General of C.T.M., the Mexican labor federation, quoted by an American unionist at the El Paso hearings of the Select Commission.[23]

There is also the argument that the commuter is inflicting the dollar economy on the peso economy of northern Mexico, and that his relatively high earnings allow him to bid up prices on the Mexican side of the border, to the detriment of the man who both lives and works in Mexico.[24]

Despite all of these comments, on both sides of the border, the essential Mexican position is that the commuter traffic should be continued. The border newspapers, for instance, view any suggestion that the traffic be regulated as a potential national disaster. (The Juarez papers, El Fronterizo and El Correo, all covered the El Paso hearings of the Select Commission in this light, and the local press in Mexicali took a similar, dim view of Cesar Chavez' march from Coachella to the border last year which was aimed at discouraging Mexican Nationals from breaking Chavez' strike.)

Notes to Chapter I

1. U.S. Department of Commerce, Economic Development Administration, Industrial and Employment Potential of the United States-Mexico Border (Washington, D.C.:Robert R. Nathan Associates, 1968), p. 17.

. Office of Economic Opportunity Information Center, 1968 Community Profile, Starr County, Texas, p. 7.

. Dr. John A. Price, "The Urbanization of Mexico's Northern Border States," an as yet unpublished monograph written for the U.S.-Mexico Border Studies Project of Notre Dame University.

4. One of the closest continuing relationships along the border is between the Governors of Arizona and Sonora. Historically they became close allies when they were coordinating their attacks on the Apaches who crossed the border at will. More recently, in 1967, the Governor of Sonora was faced with a demonstration against his party at the University of Sonora; he had a desire for, but no supply of, tear gas. Instead of seeking help from elsewhere in Mexico he called the Governor of Arizona, who immediately sent tear gas to the Nogales Airport in a National Guard plane; the Governor of Sonora's plane picked it up and carried it off to the University where it was used on the students. This was probably a violation of the Munitions Act.

5. Nathan L. Whetten, "Population Growth in Mexico," Report of the Select Commission on Western Hemisphere Immigration (Washington, D.C., Government Printing Office, 1968), pp. 171-84.

6. Dr. John A. Price, op. cit., p. 3.

7. The Nathan Report, op. cit., p. 136.

8. U.S. population data: U.S. Bureau of the Census, Census of Population, 1960 (Washington, D.C., Government Printing Office, 1960). Mexican population data: Direccion General de Estadistica, Censos de Poblacion, 1960.

9. See testimony of William Duarte, Manager of the San Joaquin Farm Production Association, Select Commission on Western Hemisphere Immigration, The Impact of Commuter Aliens Along the Mexican and Canadian Borders--Hearings--Part II--San Diego, California (Washington, D.C., Government Printing Office, 1968), pp. 222-230.

10. Leo Grebler, Mexican Immigration to the United States: The Record and Its Implications, Advance Report No. 2 -- Mexican American Study Project (Los Angeles: University of California, School of Business Administration, January, 1966).

11. From the unpublished transcript of a hearing held by the Senate Subcommittee on Migratory Labor, May 21, 1969.

12. House of Representatives, Report 1276, 74th Congress, First Session (Washington, D.C., Government Printing Office), p. 1.

13. Inter-Agency Committee on Mexican American Affairs, Testimony Presented at the Cabinet Committee Hearings on Mexican American Affairs, El Paso, Texas, October, 1967, (Washington,D.C., Government Printing Office, 1968).

14. Stanley M. Knebel, "Restrictive Admission Standards: Probable Impact on Mexican Alien Commuters," Farm Labor Developments, sixth issue (Washington, D.C., 1968).

15. Lamar Babington Jones, "Mexican American Labor Problems in Texas," unpublished Ph.D. thesis (University of Texas, 1965).

16. Conversation with Leo Leo, Mayor of La Joya, Texas, March, 1969.

17. The Nathan Report, op. cit., p. 31.

18. The basic economic statistics on these pages are primarily drawn from the Nathan Report, ibid., pp. 122-133.

19. Ibid., p. 251.

20. Price, op. cit., p. 19.

21. From the unpublished transcript of a hearing held by the Senate Subcommittee on Immigration and Naturalization of the Committee on the Judiciary, September 22, 1967.

22. The Real Estate Research Corporation, Summary Report -- Community Economic Analysis, Chamizal Planning Program, El Paso, Texas (Los Angeles: Real Estate Research Corporation, 1966).

23. Select Commission on Western Hemisphere Immigration, The Impact of Commuter Aliens Along the Mexican and Canadian Border -- Hearings -- Part I - El Paso, Texas, (Washington, D.C., Government Printing Office, 1968).

24. From the Hearings before the Subcommittee on Migratory Labor of the Committee on Labor and Public Welfare, U.S. Senate, 90th Congress, 1st Session, on Migratory Labor Legislation, Part 2, June 29, 1967, Rio Grande City, Texas (Government Printing Office, Washington, D.C., 1968), p. 368; and unpublished transcript of the Hearings of the United States Commission on Civil Rights, San Antonio, December, 1968.

II. The Current Controversy

The current controversy on the Green Card commuters is a complicated one, being carried on in several different arenas. It is carefully ignored by most of the press on this side of the border, and for years was overshadowed by the bracero issue.

It is essentially a domestic American controversy, and has not yet become a matter of moment between the two countries involved. It was, for instance, not on the agenda when the two Presidents met in 1967 according to Covey Oliver, then Assistant Secretary of State for Latin American Affairs.[1]

Organized labor, notably the United Farm Workers Organizing Committee led by Cesar Chavez, some Mexican American groups and some other liberal forces are for a tighter border; a far more impressive collection of Border Establishment interests, such as most of the Congressmen, most of the local officials, virtually all of the local financial interests, and big farming, nationally, are opposed. The Department of Labor, during the Kennedy and Johnson years, wanted a tighter border while the Justice and State Departments opposed it. The liberal immigration lobby -- which tries to ease immigration laws, not tighten them -- has been puzzled and divided on this issue. The Johnson White House, reflecting the President's long-time allies in the Border Establishment, did not want to touch this issue.

Some groups, which might be expected to be very much involved in the question, are too deeply divided internally to take a position. Whereas the national conventions of the American GI Forum and the League of Latin American Citizens, the two leading national Mexican American organizations, and the A.F.L.-C.I.O., routinely pass resolutions against the system, some local organizations of Mexican Americans, and even some local unions, do not take such a position.

Some of the young militant Mexican Americans along the border do not want to see anyone stirring up a battle among people of Mexican descent, some living on one side of the border, and some on the other; they prefer to interpret the conditions to which the tighter border advocates object as merely specialized symptoms of a sick society and an exploitive economy. Their remedies are rather more sweeping than a mere adjustment in the commuter practice.

Some other, less militant Mexican American organizations in border towns find themselves unable to take a position on the matter because although the practice hurts many of their members, many others have relatives who live in Mexico and work in the United States.

Similarly, some local unions, notably of the needle trades, have enough Green Card commuter members to make it politically risky for the local union president or business agent to speak out against the practice.

The essential arguments for a tighter border are that the

commuter traffic tends to increase unemployment among residents of America, to decrease wages, to discourage union organization and to promote migrancy. Those pressing for change stress the importance of the interests of the American resident worker, and give little heed to the possible impact of change on the Mexican economy, although the plea for tighter regulation is sometimes joined by a suggestion that A.I.D. simultaneously be restored to Mexico.

On the other hand the arguments against change are that there are insufficient workers north of the border, that the commuters have an equity in the current system, that any tinkering with it would both be unfair to Mexico and might cause a Mexican retaliation (such as enforcement of its customs code). The opponents stress the interrelatedness of the series of twin cities along the border and the importance of Mexico as a friend and ally. The opponents also point out that the 24-hour presence of the commuters and their families would increase social costs considerably in the American border towns.

The debate all too often is conducted in black and white terms -- with some tight border proponents talking in terms of making all the commuters move to the United States within a matter of months -- and all opponents (whether they are student militants or chamber of commerce spokesmen) speaking of "closing the border."

This debate, then, has been going on along the border, and also in all three branches of the Government - the executive, the legislative and the judicial. Let us look at them in that order.

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A. The Controversy Within the Executive

It is the contention of those seeking change that there is no need for anything but executive branch action on the commuter issue, since there are no statutes involved. They say, with considerable justice, that the entire arrangement was one which the INS created by fiat more than forty years ago, and it can be changed or eliminated by fiat now.

During the Johnson years there were some attempts, within the Administration, to change the commuter system, but with the exception of two concessions made by the Justice Department the tight border advocates were blocked. The lineup was as suggested previously with two new units of the Government, both created by President Johnson, being told to leave the matter alone. These were the U.S. Section of the Joint U.S. - Mexico Commission on Border Development and Friendship (hereafter C.O.D.A.F.), and the Inter-Agency Committee on Mexican American Affairs (hereafter Inter-Agency Committee).[2]

The two small concessions were the issuance of a weak regulation barring Green Card commuters from entering a labor dispute as strikebreakers after the strike had been certified by the Labor Department,[3] and the creation of the new commuter-counting technique in the fall of 1967 mentioned earlier.

The strikebreaker regulation was written and issued by INS and its narrow scope was vigorously attacked by organized

labor. The labor position was that all Green Card commuters, not just the ones hired after the date of the strike certification, should be barred from the struck employer. It was argued that an employer who saw a strike coming could hire commuters to fill his work force at any time up to the issuance of the Department's certification. Given maximum efficiency it still would take a day or two, at least, to make a judgment on the presence or absence of a strike.

That the Department of Labor shared the unions' views was made clear by Secretary of Labor W. Willard Wirtz on September 22, 1967 when he testified before the U.S. Senate Subcommittee on Immigration and Naturalization of the Committee on the Judiciary. He said that the regulation "only takes a short step in the direction of preventing aliens from being used as strikebreakers. It does not apply to persons hired after the commencement of a strike and before its announcement by the Secretary of Labor. It does not prevent an employer from hiring alien commuters to build up his work force in anticipation of a strike."

The regulation has proved to be largely useless. It was issued at the time of Cesar Chavez' efforts to organize the farm workers in Starr County -- a location not of his choosing. By the time the regulation was issued, the Starr County farms had plenty of strikebreakers (including many Green Card commuters) and did not need new ones. The strike was later ended by Hurricane Beulah.[4] The strike was

not a success, but it did succeed in creating a vehement controversy within Texas, and caused the Texas State Advisory Committee of the Civil Rights Commission, and the U.S. Senate Subcommittee on Migratory Labor to hold hearings on the subject.

The only other place where the regulation was really tested was in the vineyards of the Giumarra Corporation near Delano, California. Here the situation was different, the Green Card holders were not just crossing daily. They crossed the border at a distant point, and made their way directly or indirectly to the Giumarra vineyards, and they stayed for weeks or months. Some had worked for Giumarra in the past.

Given the lack of a system to check on commuters' movements, or even a notation on when the commuter last crossed the border, it was extremely difficult for INS to enforce its own narrow regulation. If the worker said he had entered Giumarra's employ before the start of the strike, and the employer's records supported it, or if the employee said that he had not crossed the border to work for Giumarra, but had worked for another firm first, then he was not covered by the regulation. The former instance was the crux of a court case in which a Federal judge ruled, in effect, that some strikebreaking seasonal workers arrested by INS were not, in fact, commuters, but rather residents of the Giumarra camp,who occasionally would leave the

country for brief visits to their homes, wives and families in Mexico.[5]

This ruling by Judge Manuel Real is being appealed by both sides. The judge also ruled against Giumarra on another count, saying that the Service's regulation was issued within the bounds of its authority, hence the two-pronged appeal.

The judge's ruling, understandably, has given INS little encouragement to enforce the regulation, although the strike in California's Coachella Valley vineyards during the spring of 1969, which was broken by commuters, offered the Service an opportunity to do so. (Chavez' lawyer, Jerome Cohen, told the Senate Subcommittee on Labor, on April 16, 1969, that he had trailed buses ninety miles from the border farm labor shape-up at Calexico to the fields at Coachella, and that these movements carried the workers, unchallenged, through an INS checkpoint.)

Still another unit of the Executive played a role in this controversy during much of 1968; that was the Select Commission on Western Hemisphere Immigration, created by the Immigration Act of 1965. The Commission was established primarily to give the President and Congress advice on whether or not Congress' decision to set a 120,000 yearly quota on Western Hemisphere immigration should be accepted or modified.

The Commission included five Senate members, five House members, and five public members, notably its Chairman, Richard Scammon, the political scientist and former Director of the Bureau of the Census, and Stanley Ruttenberg, then Assistant Secretary of Labor for Manpower. These two men became interested in the question of Green Card commuters, and proceeded to hold four hearings on the subject, in Brownsville, El Paso, San Diego and Detroit. The hearing transcripts, which are cited again and again throughout this report, are the single most valuable source of information on this subject.

Although the Commission itself did not make a recommendation on the subject, the two men who held the hearings did write to the President on July 22, 1968, advocating changes in the commuter system. Their mutual recommendations were:

" 1. As of a date certain, all visas issued for immigration into the United States be firmly understood to include a clear commitment by those immigrating to establish and maintain their bona fide residence within the United States.

" 2. A new form of border crossing authorization be established, this authorization being designed for use by non-citizens who do not intend to become immigrants in the ordinary sense of the word, but who do wish to work in the United States and continue to reside in their own 'contiguous territory' country.

" 3. Within a grace period, action should be taken to terminate the commuter status of present 'Green Card' holders."

Scammon and Ruttenberg agreed to the position noted above but disagreed as to how to reach it. On the second step, Scammon wanted the work certificate to be issued by a multi-agency Federal board, while Ruttenberg preferred that it be done by the Department of Labor alone. On the third, Scammon called for a ten-year grace period, while Ruttenberg wanted a two-year grace period. Scammon felt that legislation was needed to implement all three suggestions, while Ruttenberg felt it was needed for only the second one.

The White House did not act on the recommendations.

B. The Controversy in Congress

On the legislative front, there was very little activity until December 14, 1967, when Senator Edward Kennedy of Massachusetts introduced his two-sentence amendment to his own Immigration Act of 1965. Co-sponsors were his late brother, Robert F. Kennedy, and Senators Hart, Javits, Williams of New Jersey and Yarborough. The bill, S. 2790, follows:

> "Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, that section 212 of the Immigration and Nationality Act, as amended (8 USC 1182), is amended by adding at the end thereof a new subsection as follows:
>
> "(j) Any alien lawfully admitted for permanent residence whose principal, actual dwelling place is in a foreign country contiguous to the United States and is returning from a temporary stay in such foreign country to seek or continue employment in the United States shall be admitted into the United States only if the Secretary of Labor has determined and certified to the Attorney General within six months prior to the date of admission that the employment of such alien will not adversely affect the wages and working conditions of workers in the United States similarly employed, and if such certification has not been revoked on any ground. The provisions of this subsection shall be applicable to any aliens lawfully admitted for permanent residence, whether or not such aliens were so admitted prior to or on or after the date of enactment of this subsection."

This is a rather different approach than that of Scammon and Ruttenberg; it does not stop the issuance of Green Cards to new commuters; it does not create a new "polka dot card,"

to quote Scammon, which would give the holder a temporary right to work here but no right to live here; nor does it seek to end, over time, the commuting rights held by the current commuters.

Senator Kennedy's bill might be regarded as rather mild by the conservatives, if it did not give the certifying power to the Labor Department, which is regarded dimly by the Border Establishment.

The Senator had previously held hearings on the subject, on September 22, 1967, and heard from organized labor and the Department of Labor -- who were for the bill; from State which was diplomatic but non-committal; and from INS, which was discreetly opposed, for among other reasons, the additional workload which the bill would probably produce.

During the first session of the 90th Congress, Senator Kennedy re-introduced his bill, this time bearing the number, S. 1694, but there were two differences. The bill was introduced on the House side as well by Congressman Michael Feighan, whose Cleveland district is a long way from the southern border, but who is Chairman of the House Subcommittee on Immigration. The AFL-CIO encouraged him to take this action. Also, the bill now contained a second sentence, eliminating the so-called "Texas Proviso" of the Immigration Acts.

The "Texas Proviso" relates to that part of the law which makes it illegal to harbor an illegal immigrant.[6] It was introduced a number of years ago, as a trading item with the

Texas delegation, who would have voted against the entire immigration bill without it. The provision simply says that the kinds of things that employers do for workers, such as transporting them, housing them, feeding them etc., did not count as far as harboring is concerned. This protected the many Texas employers of illegals from criminal prosecution. The proviso has worked as intended and it is virtually impossible for the authorities to punish an employer for hiring (and housing and feeding) an illegal immigrant.

Before Senator Kennedy could hold hearings on this bill, in 1969, which logically would come before his own (de facto) subcommittee, Senator Walter F. Mondale of Minnesota, held hearings before his Subcommittee on Migratory Labor. Mondale's hearings came on May 21, 1969, right after Cesar Chavez' march from Coachella to the Mexican border. Mondale's witness list was led by Congressman James O'Hara of Michigan, who with Mondale, and Senators Yarborough, Kennedy and Cranston had participated in part of that march. All the Senators were in evidence, from time to time, as Ruttenberg and others testified on the question. This was, however, one instance in which the Senators participated more than the reporters, and the whole issue received little press attention as a result.

Another legislative issue before the Congress is the proposal of Congressman Frank Thompson of New Jersey and Senator Mondale to amend the National Labor Relations Act to

make the employment of a non-resident alien strikebreaker an unfair labor practice. (This is H.R.12667 and S.2568, 90th Congress.) Hearings were held on July 15 and July 16, 1969, before Congressman Thompson's Special Subcommittee on Labor of the House Labor and Education Committee. The National Labor Relations Act excludes farm workers from its jurisdiction, but the Mondale-Thompson proposal is written in such a way as to avoid this exclusion and hence, if passed, it would have an impact upon the Coachella Valley strike.

On March 4, 1970 a third piece of legislation dealing with the commuters was introduced. S.3545, presented by Senator Edmund Muskie of Maine, is more complicated than the Kennedy proposal, and contains these elements:

1. elimination of the use of the Green Card by commuting workers over a period of two years.

2. the substitution of a work permit system for those now holding Green Cards, and for other Mexican Nationals who may apply for the right to commute in the future.

3. elimination of the Texas proviso.

4. provision for civil suits by individual workers, or groups of workers, who find that their economic prospects have been harmed by employers using cross border workers.

The work permits, in the Muskie bill, would be issued by the Department of Labor, and would be good for six months, when the Department would be called upon to renew them. The permits, interestingly enough, would only allow workers to hold jobs within twenty miles of the border. The principal impact of this provision would be on commuting farm workers, rather

than city workers, because virtually all those commuting to urban jobs travel less than 15 miles -- and some simply walk from their homes in Mexico to the jobs in the U.S. Farm workers, on the other hand, commute to a number of points up to 80-100 miles away from the border -- such as the Coachella Valley vineyards.

C. The Controversy in the Courts

The judiciary has been struggling, off and on, for the last ten years with the commuter issue. On March 2, 1959, the Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO, called a strike at the Peyton Packing Company plant in El Paso. (The plant now stands in ghostly desolation in the midst of the Chamizal tract.) Finding that their strike was being broken by Green Card commuters, the Union on August 1, 1959, asked the Secretary of Labor to invoke section 212 (a) (14) of the Immigration Act of 1952, against the strikebreakers. This section gives the Secretary the power to deny entrance to an immigrant if his entrance would have an adverse effect on the labor market.

The Department of Labor, two and a half months later, complied with the union's request and issued the necessary document to INS. The Service took steps to bar new immigrants from coming to work for Peyton, but refused to bar the commuter strikebreakers, on the grounds that they were "returning lawfully domiciled resident aliens."

At this point the union went into U.S. District Court in the District of Columbia with the case that was entitled Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO, v. William P. Rogers and Joseph M. Swing (then Attorney General and INS Director).

The union argued that the aim of section 212 (a) (14) should not be circumvented by viewing commuters as returning

lawfully domiciled resident aliens, as the Service had been doing for the previous thirty-three years. The Service defended its time-honored concept, which the judge (Luther Youngdahl, a former Republican Governor of Minnesota) called an "amiable fiction."

The judge held on July 7, 1960, that although the commuter practice, per se, could continue if properly regulated, that in this instance the union's position was the correct one, and that the strikebreakers should be stopped at the border by INS.[7] The judge did this by denying the Government's motion for dismissal and for summary judgment.

More time passed, however, and when a proposed final judgment was presented to Judge Leonard P. Walsh, of the same court, he declined to issue a mandatory order to the Attorney General to bar the strikebreakers on the grounds that only four commuting strikebreakers were still on the job, and the case was virtually moot.[8]

Although INS clearly lost the argument, there was no practical effect on the Service's practices, either in the Peyton strike, or in the years that followed.

The next court battle was between another labor organization, the Texas A.F.L.-C.I.O., and the new Attorney General, Robert Kennedy.

Seeing no practical results from the Peyton decision, the A F.L.-C.I.O. mounted a broad stroke attack on the entire commuter practice, and sued in 1961 on behalf of 180 U. S.

resident workers who contended that they had been adversely affected by the competition with commuter workers. The plaintiffs alleged that the Service's position on commuters caused loss of jobs to residents, lower wages for residents than otherwise would be available, and loss of strength of unions along the border. They asked that the Service be enjoined from conferring the status of resident aliens on the commuter workers.[9]

The Government replied that the A.F.L.-C.I.O., among other things, had no right to sue (the legal term is standing) and were asking the courts to make a political decision. For good measure, 19 commuters filed a motion to intervene on the side of the INS. The Service also secured a letter from the Secretary of State, then Dean Rusk, saying that a decision in favor of the union position would be detrimental to international relations.

In 1963 the District Court, again in the District of Columbia, ruled that the plaintiffs had no right to sue, and hence the case was not decided on its merits. Subsequently, this decision was sustained on appeal.

The most recent legal battle is between California Rural Legal Assistance (CRLA), an Office of Economic Opportunity-funded organization, and the INS. CRLA sued on behalf of a group of residents of the Imperial Valley who had lost work because of the competition of Green Card commuters -- and in many cases because of employers' preference for these commuters.

The case was entitled Joe Gooch and Rafael Bustamente vs. Ramsey Clark, Harlan B. Carter and C. W. Fullilove and was filed on November 14, 1968.

The principal issues debated in this case were standing, again, and the matter of congressional intent. In the years following the Texas A.F.L.-C.I.O. suit the Supreme Court's position on who could sue the Government became more liberal, and CRLA was able to convince the trial judge, Stanley Weigel, of the Northern District Court in California, that the case should be decided on its merits.

CRLA argued, among other things, that congressional intent to change the status of the Green Card commuters was implied in the use of the phrase in the 1965 Immigration Act, "returning resident immigrants defined in section 1101 (a)(27)(B) of this title, who are otherwise admissible may be readmitted to the U.S. by the Attorney General in his discretion without being required to obtain a passport, immigrant visa or other documentation"...in place of the previously used language..."otherwise admissible aliens lawfully admitted for permanent residence who depart from the United States temporarily,may be readmitted etc..."

The judge rejected this approach, on the general grounds that a drastic change in the commuter system could not be based on a slight change in language,given what he regarded as the lack of any legislative history supporting the CRLA interpretation. The judge also did not accept CRLA's frontal assault on INS for holding that people who do not really live in the U.S. can be

defined as "resident aliens." The judge did accept the INS contention that Congress has known about the commuter practice for a long time, and by doing nothing has, in effect, sanctioned the practice.

At this writing, the case is pending appeal.

Although CRLA is still struggling with Green Card issue, it has scored at least a preliminary victory in another area, that of the employment of illegal entrants. Using California Civil Code S. 3369 it has sued a grower in Sonoma County for employing illegal entrants, claiming that such action is an unfair business practice. The suit was brought on behalf of two resident farm workers who lost their jobs when the illegal labor became available. On October 9, 1969, State Superior Court Judge Joseph P. Murphy, Jr. cleared the way for further legal action by denying the defendants' initial efforts to throw the case out of court.[10] If CRLA continues to be successful in this field, it will give that organization the opportunity to secure injunctions against the employers of illegals, but only within the State of California.[11]

Given the courts' decisions and the lack of action on the part of the Executive, it is clear that most of the action in the Green Card commuter controversy will remain in the legislative field.

There are two other major components of the cross-border work force, the citizens and the illegal entrants, but neither

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has been the subject of much controversy of late. The presence of growing numbers of citizens among the commuting class has only recently been noticed in Washington, and there is a strong underlying feeling that it would be very difficult to pass legislation controlling the movements of the citizen commuters because of the implied freedom of movement which citizens have enjoyed since the early days of the Republic. To our knowledge no legislation has been introduced on this subject, nor have any regulations been issued (or even discussed).

Whereas citizen commuters have all the rights of other citizens, the illegal entrants have no rights at all, and the only controversy revolves around whether or not the INS has enough resources to control the flood of illegal entrants adequately. This subject is delved into more thoroughly later in this report. The only recent legislative proposal on the subject -- the clause in the Kennedy, Muskie and Feighan bills which would have the effect of repealing the so-called "Texas Proviso," which protects those employing illegal entrants, has been mentioned earlier in this report.

Notes on Chapter II

1. U.S. Congress, Senate Subcommittee on Immigration and Naturalization of the Committee on the Judiciary, an unpublished transcript on hearings held in September, 1967.

2. The writer served as Assistant to the Secretary of Labor for Farm Labor, and Executive Director of the Inter-Agency Committee during this period.

3. 8 CFR 211.1.

4. Texas State Advisory Committee to the United States Civil Rights Commission, "The Administration of Justice in Starr County, Texas," mimeographed report (Washington, D.C., 1967).

5. Cermeno-Cerna vs. Raymond Farrell, Commissioner of Immigration and Naturalization Service, before the United States District Court, Central District of California (Civil No. 68-403-R).

6. Section 274 (2) (4) of the Immigration and Nationality Act as amended [8 USC 1324 (a) 4].

7. 186 F. Supp. 114 (D.D.C. 1960).

8. House Committee on the Judiciary, op. cit., p. 154.

9. Jones, op. cit., p. 73.

10. George Breunig, Eleno Riojas, Guadalupe Gaitan vs. Donald G. Orr, Don Orr Fruit Company, before the Superior Court of the State of California For the County of Sonoma, No. 62387.

11. Sheldon L. Green, "Wetbacks, Growers and Poverty," The Nation, Volume 209, No. 13 (New York, October 20, 1969). In this article Greene, General Counsel of CRLA, declared, "This resort to self-help law enforcement by the poor is a reflection on the failure of the Justice Department to perform its duties."

III. Immigration Policies

A. The Early Mass Migrations

The current controversy about the role of the trans-border work force is best viewed against a background of developing U.S. immigration policies -- in a sense, the commuter is this generation's bracero.

As one student put it, writing just before the expiration of the bracero program, "Governmental policies regulating the flow of Mexican workers into the United States since the turn of the century have assured employer groups in this area (the border region of Texas) of virtually a perfectly elastic supply of labor."[1]

Until the turn of the century, there was relatively little movement from Mexico into the United States. During the eight decades between 1820 and 1900 only 28,003 Mexican immigrants came into the United States.[2]

Between 1901 and 1910 the pace picked up considerably with 49,642 Mexican Nationals immigrating, but the massive immigration from Mexico did not really begin until the second decade of this century when 219,004 immigrants crossed the border, pulled by the prosperity and safety of the United States and pushed by the fierce warfare within their own country. (The Mexican Revolution of 1910 was no series of coup d'etats, but a prolonged and bloody civil war.)

The continuing prosperity of the twenties caused immigration from Mexico to swell to more than 450,000 during that decade, with the overwhelming majority of the immigrants pouring into the four border states.

The flood of generally unskilled workers was precisely what the farmers and ranchers of the Southwest wanted--and they had the political power to prevent any regulation of the flow. And there were attempts to regulate it.

Congressman John C. Box, who represented an east Texas district, introduced a bill to amend the 1924 Immigration law to close the border to Mexican immigrants. During hearings held on the bill in 1926 border Congressman John N. Garner spoke bluntly for the farming interests:

> "Mr. Chairman," he said, "here is the whole problem in a nutshell. Farming is not a profitable industry in this country, and in order to make money out of this, you have to have cheap labor...In order to allow landowners now to make a profit on their farms, they want to get the cheapest labor they can find, and if they get the Mexican labor it enables them to make a profit. That is the way it is along the border..."[3]

Garner, not Box, had the votes and the proposed bill was never enacted.

When the depression came, the rules changed. Suddenly the Mexican immigrant was not very welcome anymore. The Hoover Administration decided to bar immigrants who might take jobs of citizens. Tens of thousands of Mexican immigrants, many of whom were here perfectly legally, were

herded together and shipped back to Mexico simply because they were unemployed. Regarding this movement, one commentator wrote,

> "Some Mexicans returned on their own volition. If they had family north of the border, they could count on enough support to keep them from starvation. Increasing numbers of illegal immigrants were expelled under official procedures as federal authorities responded to mass unemployment by tighter enforcement of the immigration laws. Much of the reverse migration, however, fell between these two extremes. It was organized by local authorities and private welfare agencies and assisted by the Mexican government itself....
>
> "Local agencies, saddled with mounting relief and unemployment problems, used a variety of methods to rid themselves of 'Mexicans': persuasion, coaxing, incentive, and unauthorized coercion. Special railroad trains were made available, with fare at least to the Mexican border prepaid; the withholding or stoppage of relief payments and welfare services was used effectively when necessary; and people were often rounded up by local agencies to fill carloads of human cargo. In an atmosphere of pressing emergency,little if any time was spent on determining whether the methods infringed upon the rights of citizens."[4]

During the thirties only 22,319 Mexican Nationals migrated legally to the United States.

B. Illegals and Braceros

World War II recreated the earlier demands for labor, and Mexicans came pouring over the border again, with many of the new arrivals heading for farm work as their fathers had before them.

This time both Governments, Mexican and American, decided to organize the movement of workers. Two international agreements, signed in August 1942 and April 1943, were followed by the passage of Public Law 45, also in April 1943; these formed the basis for the resulting wartime foreign farm labor program. Initially the program was operated by the Farm Security Administration, and it bore a number of signs of the just ended New Deal, such as wage and working protections for the imported farm workers, and a guarantee of the worker's rights to elect representatives of their own choosing. As time passed, however, these features were diluted.

The program brought in some 220,000 Mexican workers, but none of these contract workers were allowed by the Mexican Government to enter Texas, because of Mexico's objections to discrimination in Texas against people of Mexican descent. So Texas growers simply continued to employ illegals. (We use this term, which is INS jargon, instead of "wetback" which is regarded as offensive by many Mexican Americans.)

Following the termination of the wartime bi-national program, on December 31, 1947, the flow of braceros into the Southwest continued, through informal international arrangements,

but without being regulated by a nation-to-nation compact. Attempts to negotiate such an arrangement collapsed because Mexico continued to object to the manner in which its workers were treated in Texas.

There was, for instance, the refusal by Valley growers to pay 37 cents an hour for farm work (the prevailing wage for illegals at the time was 20 cents an hour).

During this period (1948-1951) workers' wartime protections all but disappeared; the Department of Agriculture dropped out of the picture and was replaced by the U.S. Employment Service; and the U.S. Government ceased to be the employer of the workers, this role being taken over by the individual growers.

In 1951 another war, the one in Korea, created a renewal of the bi-national contract labor program, this time spelled out in Public Law 78, and this time giving control of the program to the Department of Labor. Again some standards were set and some machinery created to enforce them. (And braceros were allowed to work in Texas.)

Meanwhile, the illegals were crossing the border in droves competing not only with American residents for work, but also with the Mexican Nationals legally in the country as braceros.

The working and living conditions of the illegals were ghastly, and the public became alarmed, particularly in California. Attorney General Herbert Brownell toured the border for a first hand look at the situation, and was dismayed by what he saw.

The INS was at the time (1954) directed by General Joseph M. Swing, a West Point classmate of President Eisenhower. General Swing was told by General Eisenhower to clean up the border. Operating on the theory that an order is an order, he proceeded to sweep the country of most of the illegal entrants.

Using military methods (being able to secure, in various ways, far more resources than his predecessors) General Swing's efforts were remarkably successful. That year there were more than 875,000 apprehensions of illegal Mexican entrants, though that figure also includes multiple arrests of single, persistent illegals. (One of Cesar Chavez' lieutenants, now a citizen, said that during that period he tried to cross the border three times in a single day before making it on the fourth attempt.)

Another reason why the border clean-up was so successful was that the Government was giving with one hand, while taking with the other; in other words, the rancher who lost a crew of illegals could, with some minimal paperwork and perhaps at a slightly higher cost, hire a crew of braceros to replace them.

The peak years of the bracero program, incidentally, were in the period right after General Swing's "Operation Wetback." The number of contract workers admitted increased from about 200,000 in 1953 to more than 445,000 in 1956, the high point of the program.

Utilization of braceros ran into continuing criticism during the late fifties, and even more so in the early sixties. Public Law 78 was a temporary measure which kept getting temporarily renewed, with ever-shrinking margins of votes. Meanwhile,

the Labor Department, under Secretaries Mitchell and Goldberg, started experimenting with the device later used by Secretary Wirtz to kill the program -- namely tightening and then enforcing the rules of the game.

In May, 1963, the opponents of the program defeated the renewal of the program on the floor of the House. The farm bloc, however, rallied a few months later, and secured a just-one-more-year extension, which carried Public Law 78 up to January 1, 1965. No further extensions were voted in 1964.

Meanwhile, utilization of the braceros had been dropping steadily, with only 178,000 being imported in 1964; the factors were the tightening Labor Department regulations, the increased wages in effect demanded by the Department, and the increasing mechanization of some crops, such as cotton, previously harveste by braceros.

After the demise of Public Law 78 it was still possible to bring in braceros under a provision in the Immigration Act of 1952 which had been the vehicle used to bring Canadian and Jamaican workers into east coast harvests. Secretary Wirtz, however, despite heavy pressure, decided to use these provisic very sparingly, and the admission rates of foreign farm worke fell sharply.

After January 1, 1965, no braceros were admitted to any State except California. The California usage dropped from 112,100 in 1964 to 20,300 in 1965, to 8,600 in 1966 to 6,100 in 1967. There have been none since. In the years 1965-1967 there were no braceros used in border counties of California ,

those admitted being assigned primarily to the tomato harvest of the San Joaquin Valley.

While the bracero program, in recent years, was being phased out, the number of illegal entrants has been rising, or at least the number of apprehensions has been rising which is discussed more thoroughly in a later chapter.

Many graduates of the bracero program are currently commuters. Up until 1963 it was possible for a grower to secure "specials," i.e. named braceros. This procedure allowed many a grower to hire, legally, the illegals that he had employed in the past. Many of these "specials" never went into the bracero camps, for they lived at home, just south of the border and commuted to work each morning. The Yuma office of the Arizona State Employment Service, for instance, ran some counts of commuters in 1963 and found that roughly ten percent of the 4,500 or so daily border crossers were braceros, while 80 percent held Green Cards and the balance were citizens.[5]

Meanwhile, although most of the workers crossing the border did so illegally, or as braceros, others came as immigrants, 60,589 during the forties and 299,811 during the fifties.

Braceros no longer play a role in the border labor markets, and have not for almost four years; illegals do play a role, as we will see in Chapter V, but a minor one compared to the pre-1954 scene. The employment of the bracero and the illegal can be viewed as different techniques used by

border employers to secure low-cost labor. The elimination of one technique and the blunting of another have caused heightened interest in the remaining one, the employment of commuters.

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C. General Immigration Policies

While the arrangements made for contract farm workers have varied over the years, and are now, seemingly ended, and while the roundups of illegal immigrants have been pursued with varying degrees of vigor -- the general thrust of immigration policy itself has been in a single direction, toward tightening the rules.

It should be noted, however, that Western Hemisphere immigration provisions were always looser then those for overseas immigration, until the imposition of the 120,000 limitation on all Western Hemisphere immigration which went into effect on July 1, 1968.

All of the early immigration legislation was addressed to people coming to this nation from Asia and Europe. The Chinese Exclusion Act of 1882 and the Japanese Exclusion Act of 1906, and even the revision of the Immigration law passed in 1924 (which carried with it the country quota system for the Eastern Hemisphere) had relatively little impact on thos crossing our southern border. It was not until the Hoover Administration's decision to bar workers who might take jobs from citizens that any action was taken regarding the then booming Mexican immigration.

The Hoover Administration was under some pressure from the Congress. Congress apparently was not trying to protect the interests of the workingman in the Southwest so much as to express the "let's keep the foreigners out" viewpoint

which was then so prevalent. Congressman Box's point of view on this matter was perfectly clear; arguing in favor of closing the border, he said the Mexican immigrants were "a mixture of Mediterranean-blooded Spanish peasants with low grade Indians who did not fight to extinction but submitted and multiplied as serfs."[6]

Controls on immigration from Mexico--until July 1, 1968, were always expressed in qualitative terms, and generally handled within a framework of wide administrative discretion. The immigration laws have always had provisions barring paupers, criminals and the insane, and as time passed these clauses have become more sweeping, but always giving the Executive plenty of leeway.

The 1952 Immigration Act, for instance, carried a provision that the Secretary of Labor could in effect block the issuance of a visa if he felt that granting it would tend to lower American labor standards.

During the early sixties, as Public Law 78 ran into more and more controversy, some Western growers started securing immigration status for their most favored braceros, as insurance against the demise of Public Law 78.

The first use of this provision by the Labor Department was the establishment of a procedure whereby requests for groups of 25 or more Mexican Nationals, by a single employer, would be reviewed to make sure that labor standards would not be lowered. Employers soon learned ways around the

procedure, sponsoring 24 through one corporate name, and then 24 more through another.

On July 1, 1963, the Labor Department took another step, and insisted that all Mexican Nationals, entering to work (as opposed to those coming to join their families) had to secure Department approval for their job offers.

The Department would reject job offers which could be filled by American residents, or would adversely affect the labor standards of American workers. The Department took a very dim view of granting clearances for unskilled agricultural jobs, and, as a result, immigration fell sharply.

During the two and a half years between July 1, 1963 and December 1, 1965, the Department looked at the papers of 23,010 prospective Mexican immigrants who wanted to do farm work here. Only 2,518, generally the most skilled, were admitted.[7] Immigration from Mexico, which had been increasing rapidly, fell off as the following table shows:

TABLE X

Mexican Immigration in the Sixties

1960	1961	1962	1963	1964	1965	1966	1967	1968
32,684	41,632	55,291	55,253	32,967	37,969	45,163	42,371	43,563

Source: Annual Reports, INS

The 1965 Immigration Act gave the Labor Department positive statutory authority to the job certification program, and made it mandatory that the Department approve the entrance

of job seekers, from all over the world, rather than simply giving it the negative authority to block them.

The consequence of all this has been to eliminate most Mexican immigrants who want to come here as workers -- but a large number of Mexicans wanting to come to the United States, or to get a visa simply to become a commuter, have relatives here, and come through other immigration channels. A look at the 1968 immigration flow from Mexico is instructive, there were 43,563 arrivals, but only 5,015 had labor certifications.

Along the border the ratio of family-related visas to labor certifications appears to be even higher than it does for Mexico as a whole, though the evidence is fragmentary. For instance, according to the U.S. Catholic Conference's Immigration Division in El Paso, during the first four months of 1969 there were 2,227 immigrant visas issued by the consulate in Juarez, and of these, only 43, or about two percent, involved labor certifications.

Similarly, during 1966 and 1967 the Consulate there issued 6,354 family-oriented immigration visas, and only 262 with labor certificates.[8]

The labor certification program has a far greater effect on immigration from northern Europe than it does on Mexico, simply because the immigrants from that part of the world tend to immigrate one at a time, rather than in family groups. An unskilled Irishman or Swede, who cannot get a

labor certification, probably cannot get a visa, because he has neither the skill nor the necessary family ties. A Mexican worker, particularly one living on the border, is much more likely to find an appropriate relative, if his skill is not sufficient to get a visa.

There must have been some impact on the flow of Mexican immigrants in 1969 with the imposition of the 120,000 limitation on all Western Hemisphere immigration (with a few minor exceptions), but these data are not available as the report was being finished.

Even though both the labor certification program and the 120,000 limitation probably cut into the flow of Mexican immigrants, there still is a substantial stream of unskilled workers, all potential commuters, being given visas, year after year, and there is no reason to believe that the flow will drop much below the current levels.

The family preference system, however, has worked (and can be manipulated) in such a way that the objective of Congress, to limit the flow of unskilled workers into the Nation, has been foiled along the southern border. This is discussed in greater detail later in this chapter.

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D. Controlling the Commuter Traffic

Until the Immigration Action of 1924, commuting workers crossed the Nation's border with no formalities at all. After the passage of the act INS viewed commuters as temporary visitors on business. Effective April 1, 1927, however, the Service reversed itself, and ruled that to be a commuter one had to become an immigrant, and had to secure the necessary visa.

The INS decision was challenged in the courts, but it was supported by the Supreme Court in 1929 in Karnuth vs. Albro.[9] The commuter program has thus been in existence for more than forty years, based on the interesting premise that employment equals residence. The Service does not use this phrase, but talks about people who have secured the right to be permanent resident aliens, and does not trouble itself about where the person actually resides.

Commuter aliens are, however, treated differently than genuine permanent resident aliens, on four counts:

1. Commuters do not have to live in the United States.

2. Commuters, nominally, must remain employed to keep their Green Cards, and six months of unemployment (without a good excuse) can be grounds for denying them Green Card status, because they are neither living nor working in the U.S.

3. Commuters, under very narrow circumstances, as we have discussed before, cannot be employed for the purpose of breaking strikes.

4. Commuters cannot count the time living in a foreign country toward the years of physical presence in the U.S. which are needed to become a citizen.

None of these rules, however, have had much impact on the Mexican border. The Service does not make any visible effort, on that border, to enforce the six-month rule; the strikebreaker regulation does not appear to be enforced; and the final rule, though presumably enforced, has little impact on a group that has not demonstrated much interest in U.S. citizenship.

The INS approach to the six-month rule is a relaxed one. On the southern border there appears to be no regular enforcement program, but if an alert border guard notices an individual using his Green Card on a sporadic basis, he reports this to his superiors, who, following an investigation, may pick up the card on the grounds that the individual has not been employed for the past six months. According to one source within the Service perhaps 100 to 150 cards are withdrawn in this fashion each year.

Sometimes the Green Card holder appeals the decision, and takes his case to the Board of Immigration Appeals, a unit which reviews many of the administrative decisions of the Service from a vantage point in the Attorney General's Office. Generally, the Service has difficulty sustaining its decision on the six-month rule because the Board is sympathetic to aliens who contend that they were not employed for six months because of some uncontrollable circumstance, such as pregnancy or a disabling injury.[10]

The extent to which the Board of Immigration Appeals will go in its interpretation of the rule can be shown in its

1965 and 1966 decisions in the matter of Bailey.

Bailey was a native-born Canadian customs official, who had secured U.S. resident alien status. He worked full-time for the Canadian Government (which apparently was not concerned about his Green Card status) and, sometimes, moonlighted in America as a carpenter. A U.S. Immigration inspector denied him entrance on the grounds that he commuted to work only sporadically. Bailey appealed, and the Board ruled that he had a right to be a commuter, even though he was an official of another government, and he only worked occasionally in the United States.[11]

The Immigration Service asked for another hearing in the matter, but the Board remained adamant, and Bailey, presumably, kept up his part-time commuting.

Our own review in 1969 of the application forms filed by commuters with the Service during the initial grommetting period of 1967, indicated a substantial number of Green Card holders were commuting to seek work --not to work -- and others were commuting to school. Later, when our interviewers were in the field, they found seventeen Green Card holders in Mexico who had not worked in the previous six months, and had no intention of doing so in the next six months. (These were excluded from our sample of 400.) We regarded this group as clearly violating the six-month rule. We also found another 11 individuals who were not working in America

at the time, but said that they had worked within the last six months, or planned to do so within six months. These eleven we regarded as potential violators of the six month rule, but included them in our sample. Since we were talking to one percent of the 40,176 commuters registered in 1967, this would suggest that some 2,800 (17 plus 11 x 100) of them are either violating the six-month rule, or are potential violators of it.

Evidentally there was no effort made to use the grommetting data to deny commuters the use of the Green Card.

The Mexican Government knows that the six-month rule is not enforced, and presumably would be unhappy were it to be enforced, so Assistant Secretary of State Covey Oliver wrote to Senator Edward Kennedy on November 6, 1967.[12]

Meanwhile, the six month rule is enforced at the Detroit border, the major Canadian crossing point. Here some 5,300 workers cross the border daily, suggesting a workload which is exceeded only at the El Paso, San Ysidro and Calexico points. (It should be borne in mind that the commuters from Canada, unlike those from Mexico, have created no controversy about an adverse impact on the Detroit labor market.)

The Detroit District Director of INS told the Select Commission on Western Hemisphere Immigration that a regular check is made of the commuter's employment at six months intervals. Commuters are required to present to INS two copies of a letter from their employer, confirming employment, twice

a year; one copy goes into the INS files and the other is stamped by the Service and is to be carried by the worker as proof of continued employment. If the worker does not present a letter at regular, semi-annual intervals, the Service investigates.[13]

This testimony indicated that the Service, at Detroit, seems to know a great deal about the commuters at this crossing point. In addition to up-to-date knowledge about commuters' employers, for instance, it knows that on average there was a nine percent turnover yearly in the commuter population, that a sample showed that 60 percent of the commuters were men, and that in 1960 a survey had found that two of the commuters had been crossing the border daily since 1907!

Many commuters are not Green Card holders, and it might be useful to review the various documents which can be presented at the border by workers to secure admission to the United States. The following list, which is not exhaustive, covers the principal documents I saw used at Mexican border crossing points during the early morning rush hours:

For citizens:

1. Three different kinds of citizen identification cards, one issued by INS and two (one old, one new) issued by the consulates of the Department of State. These cards are issued as a convenience to all concerned after the officials involved are satisfied that the applicant is, in fact, a citizen. Only people crossing the border frequently bother to get these cards, and I never saw one in the hands of anyone but an American of Mexican extraction.

2. Naturalization papers -- relatively rare, as most citizen commuters are citizens by birth.

3. Birth certificates or baptismal papers, some with thumb prints on them.

4. U.S. passports -- generally held by Anglos.

For Green Card holders:

1. Form I-151, the Green Card (now bluish in color) which like the newer citizen cards, gives the name and the photograph of the holder. Some of these were grommetted, a few were not.

2. The original Mexican passport and American visa, which is clumsier to handle than the Green Card.

For others:

1. A Mexican passport, or equivalent, and a temporary work permit, the H-2 or H-3 visa.

2. A border crossing card -- which cannot be used, legally, by trans-border workers.

E. Some Difficulties With Current Immigration Policies

In general terms, current immigration policies and practices neither protect the border labor market from the adverse effects of the arrival of relatively large numbers of poor immigrants willing to work at a low wage, nor does it preserve the sanctity of the family.

The adverse economic effects caused by the commuter work force are spelled out in Chapter V, and here we will concentrate on ways in which families have been hurt by immigration policies, and how other individuals and families have been able to circumvent these policies.

American immigration policies often tend to split families. In the past, before the labor certification program, it was perfectly possible for an individual worker, particularly a young, healthy male, to secure a visa, even with no job offer, because the Consul felt that he could take care of himself, and that he would not become a public charge. The same man, perhaps a few years later, working in the kind of low-paid work that is often the lot of a recent Mexican immigrant, however, could not bring his wife and children to the country, on the grounds that he did not make enough money.

Even with the labor certification program, there is no assurance that the Labor Department's ruling that the immigrant will not depress the labor market will be matched by a State Department ruling, that the same worker's family will not become a public charge.

If the man wants to continue to hold down a job in America -- which is far better than anything he can get in Mexico -- and he wants to live with his family, he can do only one thing -- commute.

Perhaps it would be helpful to review how a potential immigrant (or potential Green Card commuter) secures this status. The process is a long one, full of governmental duplications, and, if one is seeking to bring his family with him, expensive.

For practical purposes, there are three categories for would-be immigrants from Mexico. They are relatives of adult American citizens, the highest priority, relatives of Green Card holders or citizens less than 21, and those with American relatives at all. Members of the first group are exempt from the 120,000 limitation, and processing their papers is relatively straightforward. The second group are included in the 120,000 figure, have to prove that they will not become public charges, but can avoid the labor certification requirement. The third group, which is a relatively small one, is within the 120,000 limitation, and needs to satisfy both the public charge and labor certification requirements.

No matter which category he fits, the would-be American resident first puts his name on the administrative waiting list at an American consulate, then secures a collection of

documents including police good conduct statements, a birth certificate and a Mexican passport. Eventually, he is examined by the consular officer, who decides whether or not he is of good moral character and his economic prospects are such that he will not become a public charge. There is also a medical examination. If all goes well, he gets a visa, and presents it at the border to the INS, which accepts it, and is admitted to the United States. (It is at this point that he receives the Green Card, to be used in lieu of a visa.)

Meanwhile, he has spent between 80 to 100 dollars per person in fees and mordida to secure the needed documents, whether or not the person is admitted to the U.S.[14]

If he does not have the type of relative specified by law (i.e., a spouse, child or parent who is either a citizen or a Green Card holder) he also has to secure a labor certification.

The immigration process, then, has two independent organizations, in all cases, and three in some cases, passing on the individual's right to enter the country. Either the American consul or INS border inspector can deny entrance, both working from the same laws and the same set of facts. (The consul's decision is not appealable, but that of the INS officer is.)[15]

In addition to this duplication (or, from the point of view of the potential immigrant, double jeopardy) there is

the duplication inherent in State's decision on the question of his becoming a public charge, and Labor's decision on the labor certification. Both deal with the immigrant as an economic entity, but otherwise the concepts differ sharply.

The labor certification process is aimed as much at the individual -- his skills and the job offer he has in hand -- as it is at the labor market. The labor certification program is designed to avoid the flooding of the labor market, while the public charge requirement is designed to minimize welfare costs. The labor certification program is a new one, while elements of the public charge concept can be traced back to the first immigration law passed back in 1882.

We have noted earlier the extent to which the labor certification program limits Mexican immigration -- its impact being on potential workers. The public charge provision likewise limits Mexican immigration -- but its impact is not so much on unskilled workers with Green Card or citizen relatives -- but on dependents.

The U.S. Consul General stationed in Ciudad Juarez, told the Select Commission that the public charge provision was by far the most common reason for denying visas. He estimated that only about half of the Green Card commuters, seeking to bring their families into the United States, were able to do so with 90 percent of the balance losing out because of the public charge provision.[16]

Another U.S. Consul General, the one who was stationed

in Tijuana, said that in fiscal year 1967 the consulate turned down some 5,000 applications, for public charge reasons, filed by Mexican Nationals wanting to join relatives here in the U.S. Some of these would have been commuters, some not.[17]

Let's see how these policies affect some real people.

Family A lives in Ciudad Miguel Aleman, the Mexican town opposite Roma, in the Rio Grande Valley, has its feet firmly planted in both Nations, but cannot be consistently established in either Nation without great human cost.[18]

The family is headed by a middle-aged woman, her husband being dead or otherwise departed. It consists of her paralyzed, elderly mother, two older sons, who live with the family part of the time, and two younger children who live at home part of the time. One of the sons married an American citizen, and secured a Green Card thereby. He proceeded (with the aid of an American attorney) to get a Green Card for his mother; she then, without ever moving to the United States, secured Green Cards for each of her other children. There is no hope, however, regarding the elderly lady; she can not possibly get a visa, her health and her dependency would bar her. And her daughter will not abandon her.

Meanwhile, the two older sons, who on occasion have been commuting Green Card strikebreakers at one of the struck farms in Starr County, work part of the year in Houston, and during the summer travel with the rest of the family (except the

elderly grandmother) to California to pick tomatoes. During much of the school year the two younger children, 15 and 11, live in Roma, apparently in a dwelling owned or rented by the family. This allows them to attend an American school.

This family cannot be united in the United States during the lifetime of the grandmother, and would face grave disappointments and a bleak future if denied the educational and work opportunities now open to them in the U.S.

Family B included an American citizen husband, living in the United States, his wife (who could not, for some reason, secure admission to the country) and two small children, both U.S. citizens. Mr. B generally worked north of Los Angeles, and when he did his wife often joined him (illegally). When she was caught by the INS, she would return to Tijuana, and he would drop his job in the north and move to San Diego to be near her.[19]

Family C included an American citizen husband, who was an epileptic, and a Mexican National wife. He was receiving both welfare benefits and the attention of the California State Vocational Rehabilitation Service, and feared the loss of both were he to join his wife in Tijuana. She, on the other hand, could not secure immigrant status because her husband was on welfare.[20]

Family D is composed of a mother with a Green Card, who works in an El Paso clothing factory, a husband who is a

Mexican National, with no such document, and several children. In this instance there is no single adult female relative available to care for the children, which has become the task of the man, creating a family arrangement which would be extremely difficult in any society, and nearly impossible in the Mexican one. He cannot secure a job in Mexico which would produce more than a fraction of her wages.[21]

Then there are the Green Card holders who spend part of the year in Mexico with their families, and part of it in the United States as migrant agricultural workers either alone, or with just part of their family. And there are many other examples of how the permutations and combinations of the immigration policy have separated families -- and, to be sure, countless examples of INS utilization of its discretion to join sundered families, particularly when the problem involves an illegal entrance at some point in the fairly distant past.

Some approaches to this problem of split families are discussed in Chapter VIII.

While the immigration law tears some families apart, in practice, some families along the border are doing the reverse, they are tearing apart the Nation's immigration policies.

Two factors essentially are involved:

1. The ability of commuting Green Card holders to secure visas for members of their families, even though no one involved has any current plans to

live in the United States. This has been called the pyramiding of Green Cards.

2. The common practice of Mexican residents giving birth to children in the United States.

The INS reading of the immigration law makes no distinction as to where the "resident" alien actually lives, hence it is perfectly possible for a Green Card commuter to set in motion a series of immigration applications for his relatives which may create ten or twelve new Green Card holders, all residents of Mexico, and all (though not admitting it) planning to remain residents of Mexico. In one hearing on the commuter situation, Senator Harrison A. Williams, Jr. of New Jersey, said that this provision in the law "should not be called a loophole, it should be called a truckhole." [22]

Similarly, of course, U.S. citizens living in Mexico can use these preferences to secure Green Cards for their relatives.

The attraction of using the relative approach -- as outlined in Family A's case on page 95 -- is that labor certifications are not needed until one gets around to seeking to immigrate a citizen's brothers and sisters. (There is an anomoly in the 1965 immigration law, apparently an accidental one, which requires Western Hemisphere brothers and sisters to secure labor certification which is not required for Eastern Hemisphere ones.) Relatives, however, do need to pass the public charge requirements.

As we have pointed out earlier close to 90 percent of the immigrants from Mexico arrived in fiscal 1968 as relatives, and the percentage along the border appeared to be even higher. Since the INS does not regard alien commuters, for these purposes, as different from other permanent resident aliens, it does not have any identifiable data on the extent to which commuters create more Green Cards for members of their own families. Our own survey showed that the responding 400 Green Card commuters had secured an additional 149 cards for members of their families. The Green Card holders' families, in addition to the 400 respondents and the 149 other Green Card holders, also consisted of 388 citizens (many of them children, obviously born on just the other side of the border), and 1,231 family members without American papers, beyond the border card. We did not get this kind of information on 45 of the family members.

The other major loophole in the Immigration Act is the one involving the equity created by the birth of a child in the United States. A Mexican family in the child-bearing years without either skills needed by this Nation, or relatives living or working in the Nation, can circumvent the entire immigration law by the simple expedient of having a child in an American border city. The mother needn't arrive in the border city legally in order to accomplish her mission, or she can cross with the easily obtainable border crossing card.

(At six one morning at El Paso's Santa Fe Bridge I asked the Public Health Service officer about this practice and he cheerfully replied, "Oh, we've already had three women in labor cross the bridge this morning.")

Once the birth of the child has been used to secure Green Cards for its parents, the parents can then use their own Green Cards as a basis for securing similar documents for their children, and for their parents, the infant citizen's grandparents. All of this requires some waiting, and the more expeditious priority, that of immediate relatives of a citizen, can only be used when the citizen is 21 years of age.

There is little statistical information on this practice, but we do know that 17.4 percent of the births in the city of El Paso in 1964 were to women who supplied Mexican addresses to El Paso hospitals; 1,452 of the 8,352 births recorded fell into this category.[23] Some of these women must have been citizens or Green Card holders, but most must have not been.

We also obtained some data from the Arizona State Department of Health about births to residents of Mexico in the State's four border counties. That data is for 1966, and is as follows:

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TABLE XI

Births in Arizona to Residents of Mexico

County	Number of 1966 Arizona Births to Mexican Residents	Percent of all Arizona county births
Cochise	51	3.9
Pima	36	0.6
Santa Cruz	26	8.4
Yuma	48	3.6
TOTAL	161	

Source: Arizona State Department of Health

Two years earlier there had been 115 births to Mexican residents reported in the same four counties.[24]

Notes on Chapter III

1. Jones, op. cit., p. 5.

2. U. S. Immigration and Naturalization Service, Annual Report (Washington, D.C., 1967), pp. 58-59.

3. Hearings before the Committee on Immigration and Naturalization, House of Representatives, 69th Congress, 1st Session, 1926, Vol. I (Washington, D.C., Government Printing Office, 1926), p. 189.

4. Grebler, op. cit., p. 25.

5. Interview with Fred Flint, manager, Yuma ASES office; data referred to is remembered by the local office staff in terms stated, but the documents have been destroyed.

6. Divine, American Immigration Policy, 1924-1952 (1957), p.57, quoting from the Congressional Record 2817 - 18 (1928).

7. James C. Nix, "Characteristics of Mexican Immigrants working on Farms," Farm Labor Developments, (Washington D.C., September-October, 1967).

8. Select Commission, Hearings -- Part I -- El Paso, op. cit., p. 159.

9. 279 U.S. 231, 1929. Two immigrants to Canada, Mary Cook, a spinner born in Scotland, and Antonio Danelon, a native of Italy whose occupation was not noted, had been commuting to work in the United States from Niagara Falls, Ontario. INS stopped them, on the grounds that they did not have immigrant visas; they sued, lost at the U.S. District Court level, but won in the Court of Appeals. The Supreme Court overruled the Court of Appeals on two basic grounds: In the first place it dismissed the lower court's concern with the clause in the Jay Treaty of 1794 calling for an open border between Canada and the United States on the grounds that the War of 1812 had erased that part of the Treaty. Secondly, it declined to view the commuters as temporary visitors in the United States on business, because the Congress had clearly shown its intent to draft the immigration laws in such a way as to protect the interest of American labor. Justice Sutherland, who later repeatedly fought New Deal legislation, wrote this anti-commuter decision. The question of who financed the litigation for the two commuters remains unanswered.

10. Select Commission Report, op. cit., p. 103 and testimony by Arnulfo Guerra, before Senate Subcommittee on Migratory Labor, May 22, 1969.

11. Matter of Bailey, Board of Immigration Appeals, Interim Decision # 1546 (A-13959481), August 9, 1965 and January 6, 1966.

12. Letter in files of the U.S. Senate Subcommittee on Refugees and Escapees.

13. Select Commission on Western Hemisphere Immigration, The Impact of Commuter Aliens Along the Mexican and Canadian Border -- Hearings -- Part III -- Brownsville, Texas and Part IV -- Detroit, Michigan (Washington, D.C., Government Printing Office, 1968), pp. 161 et seq.

14. Select Commission, Hearings--Part I--El Paso, op. cit., p. 48.

15. Ronald Wyse, "The Position of Mexicans in the Immigration and Nationality Laws," Mexican American Study Project, Advance Report 2 (University of California, Graduate School of Business Administration, January, 1966), pp. D-3 through D-8.

16. Select Commission, Hearings--Part I--El Paso, op. cit., p. 46.

17. Ibid., Part II--San Diego, p. 17-18.

18. All of these are real cases, but the names are not used for obvious reasons. This account was secured in an interview with the family and Arnulfo Guerra of Roma.

19. Select Commission, Hearings--Part II--San Diego, op. cit., p. 175.

20. Ibid., p.97.

21. Interview with Luis Alfonso Velarde, Jr., Director, S.W. Area Office, Department of Immigration, U.S. Catholic Conference, El Paso, Texas, June 5, 1969.

22. U.S. Congress, Senate, Subcommittee on Migratory Labor, Senate Committee on Labor and Public Welfare, Hearings on Migrant and Seasonal Farmworker Powerlessness, "The Border Commuter Labor Problem," May 21 and 22, 1969. Unpublished Transcript in the files of the Subcommittee.

23. This data was secured from the city's birth records by Gloria Clark, a member of TransCentury Corporation's public health team in El Paso, as a by-product of research being conducted for the firm's Public Health Service project in that city.

24. Information from a letter to the author from Chief, Data Analyses Section, Arizona State Department of Health, Phoenix, Arizona, August 20, 1969.

IV. The Border Crossers

Who are the border crossers? What kind of people are they?

Previously little had been known about them. INS had counted the citizen and Green Card commuters, and knew where they crossed the border. The Labor Department had studied the occupational distribution, but that was about all.

We sought additional information by interviewing 400 (roughly one percent) of the Green Card commuters, and smaller numbers of apprehended illegals entrants (75) and citizen commuters (85). (The techniques used are described in the appendix section on methodology.) We will examine personal characteristics, economic characteristics, and the commuters' ties with the U.S. Finally, we will look at the unique qualities of each of the three groups.

Personal Characteristics

Most of the border crossers are male, but there are sharp differences among the three component groups: 75.8 percent of the Green Card commuters were males, all the illegals were males, as were 62.4 percent of the citizens. (Although some women do cross the border illegally, and do get arrested, they are relatively rare, a point which will be discussed more thoroughly later.) The male-female ratio among the Green Card holders was roughly uniform along the border.

The age profiles of the three work force components is interesting; the illegals are the youngest (with 68.0 per-

cent being under 35), 45.9 percent of the citizens we met were under 35, while only 32.8 percent of the Green Card commuters were in this bracket. Nationally, 40.2 percent of the labor force is under 35.[1]

While the illegals are the youngest, the Green Card holders are mostly in the middle range of working ages, with fully 33.2 percent of them being in the 35-44 age group, and more than 80 percent between 25 and 54. Older workers among the border crossers are considerably smaller proportionately than in the Nation as a whole. The statistics follow:

TABLE XII

Comparative Age Distribution of Border Crossing Labor Force and Total U.S. Labor Force

		(Percentage Distribution)			
	Age	Green Card Commuters	Illegal Entrants	U.S. Citizen Commuters	Total U.S. Labor Force
1.	Under 20	.5	12.0	10.6	8.5
2.	20 - 24	5.3	25.3	20.0	11.8
3.	25 - 34	27.0	30.7	15.3	19.9
4.	35 - 44	33.2	18.7	30.6	21.1
5.	45 - 54	23.4	9.3	22.3	20.8
6.	55 - 64	8.3	4.0	1.2	13.9
7.	65 and over	2.0	-	-	4.0
8.	No response	.3			
	TOTALS	100.	100.	100.	100.

Source: First three columns, TransCentury survey, 1969; Fourth column, U.S. Department of Labor

Several things should be kept in mind about these age distribution figures; in the first place, being an illegal

immigrant is a rugged occupation, and youth is an important consideration. (Some of the illegals our interviewers met had walked more than a hundred miles cross country before venturing onto America's roads.) Secondly, the Green Card commuters we met were a sample of people who held these cards two and a half years earlier, which probably created a universe two and a half years older than it would have been otherwise. Finally, the survey results suggested a commuter life cycle which includes birth in Mexico, spending one's early productive years as a resident of the United States, and then a return to Mexico as the growing family tightens the budget. It is also possible that, despite contentions to the contrary elsewhere in this report, there is a slowing of the commuter creation process which may have affected the age distribution.

Generally, illegal entrants were born in the interior of Mexico (i.e., in a state not touching the U.S. border), Green Card commuters were born in Mexican border states, and citizen commuters were born in the U.S. This data follows in tabular form:

TABLE XIII

Distribution of Border Crossers by Place of Birth

	(Percentage Distribution)		
	Green Card Commuters	Illegal Entrants	U.S.Citizen Commuters
Born in interior of Mexico	30.3	66.7	0
Born in Mexican border state	69.7	33.3	22.4
Born in the United States	0	0	77.6

Source: TransCentury survey, 1969

Apparently residents of Mexican border states have greater opportunities (probably because of relatives on this side of the border) to enter the United States legally than those born in the interior -- hence the differentially higher percentage of illegal entrants born away from the border.

Most of the respondents were members of large families (generally the mother or the father), although more than a third of the illegals were young men without family responsibilities. The citizen commuters reported the largest families, averaging 6.0 members, the Green Card commuters were next with an average of 5.5, and the illegals (reflecting the large proportion of single men) had 4.8 family members each.

The educational attainment of the border crossers was what one might have expected, with the citizens having the greatest amount of education, the Green Card commuters in a middle position, and the illegals the least. The general level was low, with those with no formal education at all outnumbering those who went beyond high school by a margin of 91 to 3. The statistics are on the next page.

TABLE XIV

Educational Attainment of Border Crossers

Years of Formal Education	Green Card Commuters (Percentage Distribution)	Illegal Entrants (Percentage Distribution)	U.S. Citizen Commuters (Percentage Distribution)
1. 0	17	25	5
2. 1 - 3 years	32	43	20
3. 4 - 6 "	38	21	60
4. 7 - 8 "	6	4	12
5. 9 - 12 "	6	7	3
6. Over 12 "	1	--	--

Source: TransCentury survey, 1969

Economic Characteristics

All the border crossers interviewed are in the work force, and all except 3.7 percent of the Green Card holders and 2.6 percent of the citizen commuters were employed at the time of the interview. (All the illegals, by definition, since they were under arrest, were unemployed, but all had been working, or looking for work at the time of their arrest.) This relatively high rate of employment reflected the instructions to the interviewers -- to interview workers only. (We encountered, as mentioned earlier, but did not interview, 17 Green Card holders in Mexico who had neither worked in the last six months nor planned to work in the next six months.)

Generally the border crossers have jobs involving little skill, and the most common single occupation among both the Green Card holders and the illegals was agricultural field

work. Using ten broad occupational categories, the kinds of work done by those crossing the border can be described as follows:

TABLE XV

Occupations of the Border Crossers

(Percentage Distribution)

	Green Card Commuters	Illegal Entrants	U.S. Citizen Commuters
Professional	1	0	0
Clerical, Managerial & Sales	7.8	0	1.2
Skilled			
Nonagricultural	11.8	1.3	11.8
Agricultural	1.5	0	0
Semi-Skilled			
Operators (garment)	5.0	0	9.4
Other	2.8	6.6	10.6
Unskilled			
Nonagricultural	8.0	17.3	29.5
Agricultural	39.2	72.0	17.6
Service			
Domestic	6.5	0	15.2
Other Service	16.4	1.3	4.7
No Response		1.5	
TOTALS	100.	100.	100.

Source: TransCentury survey, 1969

The data found in the survey of the border crossers can be compared to the more detailed data secured by different methods in the Labor Department's study of the documents filed by the Green Card commuters in connection with the grommeting process. The Labor Department's research involved determining occupations by the commuters' response to a written query, while ours came from a conversation between the interviewer and the commuter. However, the findings of both studies are generally consistent with each other. The Labor Department's figures follows:

TABLE XVI

Number of Mexican Alien Commuters, by State and Occupation 1967

Occupation	Total	Texas	California	Arizona
Total	40,176	19,714	15,284	5,178
Building occupations	2,421	1,801	521	99
Carpenters	895	732	131	32
Painters	487	319	153	15
Other building occupations	1,039	750	237	52
Business occupations	3,285	2,405	429	451
Cashiers	232	167	28	37
Clerks, office	354	233	47	74
Clerks, sales	1,713	1,248	207	258
Clerks, stock and receiving	309	232	64	13
Managers	377	309	41	27
Secretaries	199	150	24	25
Other business occupations	101	66	18	17
Hotel and restaurant occupations	2,235	1,308	812	115
Bartenders	93	56	28	9
Bellhops	35	25	10	0
Chambermaids	223	100	108	15
Cooks	651	390	232	29
Kitchen helpers	675	410	236	29
Waiters, waitresses	328	228	70	30
Other hotel and restaurant occupations	23	4	19	0
Other occupations	32,235	14,200	13,522	4,513
Automobile-shop workers	536	246	253	37
Beauty operators and barbers	72	53	19	0
Custodial workers	344	215	116	13
Drivers, truck	1,093	647	315	131
Farmworkers	16,035	3,436	9,171	3,428
Fishermen	183	92	91	0
Florists	41	3	38	0
Food-processing occupations	848	524	299	25
Gardeners	534	210	301	23
Hospital helpers	88	53	17	18
Jewelers	39	16	22	1
Laborers, general	3,668	2,517	940	211
Laundry workers	590	292	245	53
Maids, private household	2,779	2,169	412	198
Metalworkers	1,627	1,435	147	45
Parking-lot attendants	47	12	34	1
Professional occupations	342	244	44	54
Repair occupations	248	196	49	3
Sewing-machine operators	1,167	809	290	68
Service-station workers	227	150	58	19
Upholsterers	222	125	94	3
Warehousemen	255	164	54	37
Miscellaneous	1,250	592	513	145

Source: INS Commuter Census, November-December 1967. (Reproduced from farm Labor Developments, sixth issue, 1968; Washington, D.C.)

The Labor Department's survey of Green Card commuters, and ours, indicate an uneven distribution of occupations across the border. We found, for instance, the four professionals we met all living opposite Texas cities; all the garment workers employed in the cities of Eagle Pass, Del Rio, El Paso, and San Diego; and the percentage of farm workers varying from a low of 6.7 percent in the crossing points of Nogales and Douglas, to highs of 88.9 percent at San Luis, and 89.9 percent at nearby Calexico.

The survey of illegals, however, taken in only three places (the detention centers at Port Isabel and, El Paso, Texas, and at El Centro, California), showed a uniformly high percentage of farm workers. Our sample of illegals had a slightly higher percentage of farm workers than one might expect from INS statistics, which generally indicate that of those caught working three-fifths to two-thirds were farm workers.

The border crossers tend to be badly paid by national American standards, though they do far better economically than their neighbors who both live and work in Mexico.

Information was secured on hourly wages paid to both the Green Card commuters and the citizen border crossers (but not for the illegals, who are often not paid on this basis). Among the Green Card holders, where the sample was large enough to make such a comparison meaningful, men made substantially more money than women. Green Card holders generally reported higher earnings than citizens. (This is caused by the differential geographic distributions of the samples, with the citizens all

working in Texas cities, while the Green Card holders worked from one end of the border to the other, from the low wage areas of south Texas to the relatively high-wage areas of California.)

The hourly wage data follows:

TABLE XVII

Hourly Wages Paid to Border Crossers

Hourly Wage	(Percentage Distribution) Green Card Commuters Male	Female	U.S. Citizen Commuters
1. Under $.50	1.0	7.2	0
2. .50 - .75	.7	8.3	3.5
3. .76 - .90	.7	1.0	5.9
4. .91 - 1.00	4.0	3.1	8.2
5. 1.01 - 1.15	3.6	4.1	4.7
6. 1.16 - 1.30	6.9	7.2	24.9
7. 1.31 - 1.45	9.9	11.3	4.7
8. 1.46 - 1.60	16.8	11.3	16.4
9. 1.61 - 1.80	31.6	31.1	14.1
10. 1.81 - 2.00	10.2	4.1	5.9
11. 2.01 - 2.50	6.3	6.2	3.5
12. Over 2.51	8.3	5.1	8.2
AVERAGE	$1.65	$1.46	$1.45

Source: TransCentury survey, 1969

It is evident that the minimum wage level ($1.60 an hour for non-agricultural work) plays a significant role in setting the border crossers' wages, with nearly one half of the male Green Card commuters reporting wages in the brackets immediately above and below the $1.60 mark.

Wages generally move higher as one moves west along the border, even though most of the farm workers in the sample (103 out of 157) were found in San Luis and Mexicali. We have compared the hourly wages for Green Card commuters in four areas below:

TABLE XVIII

Hourly Wages Paid to Green Card Commuters - By Area

	Hourly Wage	(Percentage Distribution) Texas (East of El Paso)	El Paso, Nogales, Douglas	San Luis, Calexico	San Diego
1.	Under $.50*	6.7	3.7	0	0
2.	.51 - .75	2.6	5.9	0	0
3.	.76 - .90	4.0	0	0	0
4.	.91 - 1.00	10.6	4.4	.9	0
5.	1.01 - 1.15	9.2	4.4	1.7	0
6.	1.16 - 1.30	17.1	5.2	5.2	2.7
7.	1.31 - 1.45	2.6	8.8	22.6	1.4
8.	1.46 - 1.60	23.8	11.8	20.0	6.9
9.	1.61 - 1.80	14.5	36.8	40.9	24.7
10.	1.81 - 2.00	3.9	11.0	3.5	17.8
11.	2.01 - 2.50	3.9	6.6	1.7	15.1
12.	Over $2.50	1.3	1.5	3.5	31.5
	AVERAGE	$1.33	$1.53	$1.51	$2.34

Source: TransCentury survey, 1969

* Those earning less than 50 cents an hour were domestics, including one commuting maid who reported she was paid 25 cents an hour.

Weekly wage data were collected from all three groups of workers, with these results:

TABLE XIX

Border Crossers' Weekly Wages

	Weekly Wage	(Percentage Distribution) Green Card Commuters	Illegal Entrants	U.S. Citizen Commuters
1.	Under $10	0	1.9	0
2.	11 - 20	2.5	3.7	5.9
3.	21 - 30	2.8	7.4	2.4
4.	31 - 40	5.5	9.3	15.2
5.	41 - 50	8.5	16.7	16.4
6.	51 - 60	10.5	11.1	20.0
7.	61 - 70	26.8	14.8	15.2
8.	71 - 80	16.2	18.5	13.0
9.	81 - 90	8.0	5.6	1.2
10.	91 - 100	6.3	1.9	4.7
11.	101 - 110	3.5	1.9	3.5
12.	Over $111	9.5	7.4	2.4
	AVERAGE	$69.20	$59.79	$56.66

Source: TransCentury survey, 1969

The weekly wages of the illegals, which are higher than those of the citizens, struck us at first as surprising until we realized that many of the illegals were working well away from the border and all the citizens were working in Texas border cities. Five of the illegals made more than $100 a week, with the best paid man being a non-union cement finisher working in Nebraska. His $210 a week income included overtime

payments. The second highest pay ($150 a week) went to a factory worker, who also received overtime for his Texas job. The man in the third place, who made $120 a week, was also a construction worker, also in Nebraska, also an overtime recipient, and placed in that job by the Nebraska State Employment Service.

The other relatively well paid illegals were usually farm workers doing well with piece rate arrangements on California farms.

While the interviewers talked to the border crossers about their own weekly and hourly wages, discussions of annual income with the Green Card and citizen commuters were in terms of the entire family's income. (The duration of the illegals' visits to this country were too brief for a meaningful discussion of their annual U.S. income.)

TABLE XX

Annual Income - Green Card and Citizen Commuters

	Percentage Distribution	
	Green Cards	Citizens
1. Under $750	1.5	0
2. $ 751 - 1500	3.2	7.1
3. 1501 - 2250	8.0	23.6
4. 2251 - 3000	12.8	25.9
5. 3001 - 3750	29.0	22.4
6. 3751 - 4500	15.8	9.4
7. 4501 - 5250	13.5	7.1
8. 5251 - 6000	4.5	1.2
9. 6001 - 6750	4.3	3.5
10. 6751 - 7500	3.7	0
11. 7501 - 8250	2.2	0
12. Over $8251	1.5	0
AVERAGE	$3,910.	$2,984.

Source: TransCentury survey, 1969.

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A couple of comparisons would be useful; in the first place most of the commuters, despite their status as workers, fall below the current poverty index. The most recent poverty level cut-off point for a non-farm family of five* is $3,992, and, as noted earlier, the average size of the commuters' families is more than 5.[2] Using the nearest lower break in our income tabulations, $3,750, we find that 54.5 percent of the Green Card holders and 79 percent of the citizens fall below this mark. The average Green Card income, $3,910, is also below the poverty threshold, and that of the citizens, $2,984, even more so.

On the other hand, most of the commuters are earning more money than their neighbors in Mexico. Dr. Price, in surveys of Tecate and Tijuana householders in 1967 and 1968, found that yearly family incomes were $2,748 in Tecate and $2,700 in Tijuana.[3] (These two Baja California cities, in previous years, reported the highest average per capita incomes in Mexico.) Only 25.5 percent of the Green Card commuters, from the Gulf to the Pacific, made less than $3,000 a year, while only 13.1 percent of those living in Baja California (those entering the U.S. at San Ysidro and Calexico) were in this bracket.

There were a few families at the other end of the income scale, with 15 out of 400 Green Card commuters reporting family incomes in excess of $7,500 a year. As one might expect, a majority of these lived in Baja California.

A number of other family finance questions were raised. For instance, we asked how much rent was paid for the

*Though many commuters work on U.S. farms, they generally live in cities.

commuters' dwellings in Mexico. For the most part the commuter is a renter (roughly 69 percent of both the citizens and the Green Card holders are in this category) and most of this group (60.2 percent of the Green Card holders and 76.2 percent of the citizens) are paying between $10 and $30 a month in rent.

Only a handful of the commuters (1.7 percent of the Green Card holders, and 1.2 percent of the citizens) use their job in the United States to supplement a Mexican business income.

A key question is related to where the commuter spends his money. Is he a real source of gold out-flow, for instance? Does he really help the economy of Mexico? Or is he simply one who secures his income in the United States and spends most of it there? The last statement is closest to the truth.

Knowing that we would be seeking, at best, an educated guess, we asked each of the Green Cards to tell us, in terms of quarters of his income, how much he spent in the United States. These were the responses:

	Percent
About one fourth	11.1
About one half	36.4
About three quarters	50.5
All	2.0

We had not put the final alternative on the questionnaire, but eight commuters reacted that way anyway.

Given the low rates quoted earlier for housing expenditures (of the Green Card commuters) this response is highly understandable. The commuter, though he may be a number of other things, is not a major villain in the gold flow drama.

We asked the interviewers to look at the physical possessions of the commuters, and found that more than 82 percent of the Green Card holders (and 72.9 percent of the citizens) had both electricity and running water in their homes, which set them apart from many of their neighbors.

Black and white television sets were in the homes of 71 percent of the Green Carders and in the residences of 48.3 percent of the citizen commuters. We found color T.V. sets in 4 percent of the Green Card homes and in 8.2 percent of the citizens' houses.

Regarding car ownership, the responses were different, with 67.9 percent of the Green Carders answering the question saying that they owned one or more cars, while only 29.4 percent of the citizen commuters replied in the same manner. (Part of the difference is due to the large number of citizens we talked to in Juarez, a city which has good public transportation to El Paso, and a city where most of the Green Card interviewees also do not have cars.)

Union membership is higher than we had expected, with 10.8 percent of the Green Card holders and 9.4 percent of the citizens indicating past or present membership in an American union (and only .8 percent of the Green Carders and none of the citizens reporting past or present membership in a Mexican union). Of

illegals, 10.7 percent indicated past or present membership in an American or a Mexican union.

Strike participation is unusual. Only 2.8 percent of the Green Card holders and 2.4 percent of the citizens had ever participated in an American strike. None of the Green Card holders admitted to having helped break a strike, although we know that at least one of the respondents had, in fact, done so. Two citizen commuters told us that they had worked at Peyton Packing during its strike.

Ties with United States

The border crossers have a variety of ties with the United States in addition to the all-important job. One of the most common ties is relatives, with 64.3 percent of the Green Card holders and 56 percent of the illegals reporting that they have blood relatives living in the United States. Among the Green Carders with relatives here, more than half of them listed three or more of them.

Another common tie is an American address, with 33.6 percent of the Green Card holders and 61.2 percent of the citizens having an American mailing address in addition to the one they have in Mexico. In most instances this is a street address in the United States, but sometimes it is a post office box.

Most of the Green Carders have, in fact, been resident aliens in the past, with 55.4 percent falling into this category while 65.9 percent of the citizen commuters told us that they

had actually lived in the United States. It is interesting that a larger percentage of the citizens (77.6 percent) told us that they were born in the United States, suggesting that some of those born here spent very little time here after their birth. Perhaps it would be more sensible to reverse the emphasis, and note that 34.1 percent of the citizen commuters regard themselves as never having lived in the nation of their citizenship, and 44.6 percent of the "permanent resident aliens" stating that they never did, in fact, reside in this country.

Of the border crossers who have lived in the United States, most did not stay very long. More than half of them stayed for less than two years, (56 percent for the citizens and 53.5 percent for the Green Card holders). Men, who apparently migrate more easily, recorded more of the shorter stays than women did.

In 91.4 percent of the instances of stays in the United States, the Green Carder had lived in one of the four U.S. border states, with only a rare individual venturing deeper into this country.

A substantial number of the border crossers have migrated seasonally into the United States at least once in the last five years; 30.6 percent of the citizens and 32.6 percent of the Green Card commuters reported that they had done this, with the overwhelming majority doing farm work in the process.

The border crossers do not participate very much in elections on either side of the border; of the citizen commuters (though in many cases eligible to vote, at various times, in both nations) only 9.4 percent said that they had voted in U.S. elections, and only 5.9 percent indicated that they had voted in Mexican elections. (We encountered three civic-minded individuals who have voted in both nations, or 3.5 percent of the sample.) Green Card commuters, who can only vote in Mexico, did little better there than the citizen commuters did, with 12.5 percent of them participating in Mexican elections.

The Green Card commuters have had a variety of experiences with the immigration process, and we asked a number of questions about that. We asked them if they would prefer to live in the United States, and found that most of them would (79.5 percent), with women responding about as men did. There may have been some tendency of the commuters to answer in this way because they thought we wanted that response, though we sought to guard against this kind of reaction.

Regarding why they are not living now in the United States, 35.3 percent said that they could not afford it, and another 0.3 percent indicated that the entire family could not immigrate.

A majority of the Green Card commuters (52.8 percent) l been in the United States before receiving their card, and

a majority of that group (55.9 percent) had been here as braceros. Another sizeable segment of that group had been here as illegal workers (20.7 percent), there being some overlap between these two categories. Presumably, the 20.7 percent figure is a minimal one, because we cannot assume that all of the former illegal entrants would acknowledge it.

Most Green Card commuter families include members who cannot immigrate to the United States and others who are citizens of the U.S. We totalled the family members,as follows:

Green Card holders	549
U.S. citizens	388
Border cards only	460
No immigration documents	771
No information	45
Total	2,213

The distinction between those with border cards and those without any documents has no bearing on immigration, and does not relate to the extent to which those family members can visit the United States. Generally it was the very young and the very old who were without documents of some kind and at least part of the border card response may have been misleading, because little children routinely cross the border with nothing more than a notation on the cards held by their parents.

If all members of all Green Card commuter families had to move to this country quickly -- which we regard as unlikely and undesirable, it would cause these families, assuming all wanted to move, to apply for 1,274 sets of immigration documents, or about three per family.

The commuters secured their own Green Cards fairly recently, although seven of them have had their cards since the twenties, and two others got theirs during the thirties. The majority received theirs since 1961 (56 percent). In fact, 7.2 percent indicated that they received their cards during 1967, the year that their name was recorded by the INS commuter enumeration.

All of this suggests that had the creation of new commuters been outlawed at the time of the demise of the bracero program, January 1, 1965, for instance, the border labor markets would already be feeling the effects. Of the commuters, 19 percent received their documents during the years 1965, 1966 and 1967.

We found, too, that often the Green Card holder whose name we had was not the only cross-border worker in the family. Sometimes there was a citizen in the family who worked in the United States, and sometimes another Green Card holder. We found that there were 447 Green Card commuters among the 400 families interviewed.*

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*These data and the family composition information reflect a set of tabulations not recorded in the appendix.

Only a minority of the commuters reported that they had tried to get Green Cards for members of their families (32.3 percent), and the results had not been very encouraging. Of those who sought the cards only 7.6 percent said that they had been successful, while 45.6 percent said that they had been turned down. (The balance of the applications were pending.) Some commuter families would not need any new documents, because the other family members are already citizens or card holders.

The immigration process is a complicated one and many commuters (68.5 percent) sought help with the application. The most frequent source of such assistance was an employer or potential employer (42.6 percent) or a relative (31.3 percent). Rarely did the would-be immigrant turn to a professional, such as a lawyer or an immigration consultant (6.2 percent), and as a result only a minority paid anyone to help get the card (23.3 percent).

We had trouble with the difference between the last two figures quoted, because four times as many people said that they paid someone to help them as reported the use of professional assistance. This may reflect a misunderstanding about the thrust of the question (one has to pay $35 to $45 in fees to the U.S. Government at the time of immigration)[4] or it may reflect the payment of fees and mordida to secure the many Mexican documents one must have for the process.

Generally there was not a lot of money involved in these cases, with 54.2 percent of those making a payment saying it

was less than $100.

The key question sought the commuters' reaction to an adverse effect formula (as in the Kennedy bill) which might cause them to either move or lose their jobs in the United States. If you had to make the choice, we asked, between working and living in Mexico, on one hand, or working and living in the United States, on the other, what would you do?

The reply was that 87.4 percent would move into the United States under those circumstances. Should this happen, those who would stay in Mexico, would stay right at the border; only 11.8 percent of those opting to stay in Mexico would move into the interior.

Of those who would move to the United States, virtually all of them (93.4 percent) would move right across the border, and the balance would move elsewhere along the border (generally to California).

The Illegals

The first thing that should be said about the illegal entrants in the work force is that their number has been increasing rapidly in recent years. In fact, during the most recent fiscal year (1969) there were more than 200,000 of them apprehended. The number of such apprehensions (of Mexican nationals) is as follows:

TABLE XXI

Apprehensions of Illegal Entrants, (Mexican Nationals)

Fiscal Year	Adult Males	Women and Boys Under 16	TOTAL
1969	179,073	22,440	201,513
1968	132,999	18,681	151,680
1967	94,114	14,213	108,327
1966	77,285	12,466	89,751
1965	44,633	10,716	55,349

Source: INS

The figures show a steady movement upwards, one that has been continuing since 1960 when 29,651 illegals were caught, a post-war low. The larger figures each year must denote both a greater volume and more INS efficiency, but we cannot tell the relative importance of those two factors. More significantly, we do not know how many get away.

As the years have passed the male-female ratio among those caught has changed. The ratio between adult males and women and boys under 16, was about four to one in 1965 and was about eight to one in the last fiscal year.

INS also collects data on how long the illegals were in the

country, when they were captured, but not how often they came back and tried again. Generally, the illegals who are caught are found quite rapidly. A typical breakout of this data for adult male Mexicans is found in the statistics for fiscal 1968:

TABLE XXII

All Illegal Entrants By Duration of Stay at Time of Apprehension (1968)

	Number	Percent
Apprehended at entry	26,738	20.1
Less than 72 hours	25,199	18.9
Four - 30 days	39,710	29.9
One - 6 months	32,750	24.6
Seven months - 1 year	4,678	3.5
Over 1 year	3,924	3.0
TOTAL	132,999	

Source: INS

Obviously, the 52,000 or so caught at entry, or within the first 72 hours, have not had much time to make an impact on the labor market, but those who stay longer do affect it.

Our interviewers, who had been instructed to talk with only those illegals who had held a job, either on this trip or on a previous one, talked with a group of workers who had (because of this stipulation) a better arrest avoidance average than the cited INS statistics would suggest. This was the arrest experience of these seventy-five men on this visit to the United States.

TABLE XXIII

Illegal Entrants Interviewed, Duration of Stay at Time of Apprehension

	(percentage distribution)
Under 72 hours	26.7
72 hours to 1 week	12.0
1 week to 1 month	24.0
1 month to 6 months	30.6
7 months to 1 year	6.7
Over 1 year	0

Source: TransCentury survey,1969

The men we interviewed included a number of repeaters (33.3 percent had been here illegally before) and a number who will try again (43.5 percent responding to the question).

Some of the illegals had been here previously on a legal basis (36 percent) , most as braceros and the rest on border cards. A minority (16 percent) had sought, unsuccessfully, to secure immigration visas; 56 percent said that they would try to get papers to come here legally.

These men were young, generally married, and the fathers of up to nine children. The age data were described on page 107 and the marital status is noted below.

TABLE XXIV

Marital Status of Interviewed Illegals (percentage distribution)

Never married	34.7
Married currently	54.6
Separated, Widowed, Divorced	10.7

Source: TransCentury survey, 1969

Most of the illegals we talked to (like most of them generally) came to the United States surreptitiously, or at

least they told us that they did. (Many illegals enter with a border crossing card, mail the card home as soon as they are in the United States, and then tell the INS officers, when they are caught, that they had waded the river. This approach protects the border crossing card, which had probably been issued in another name, anyway. Then, when they get home, the card is waiting for them, and they can do the same thing again.) In any event, 77.3% of the interviewees said that they entered without inspection (to use the INS term), 16 percent used border cards, and 6.7 percent had falsified documents they used at the border. The five-to-one ratio of river-waders to border card users is roughly comparable to the fiscal 1968 experience of the Service, who found 117,124 in the first category, and 25,943 in the second. (Men incidentally are far more likely than women and boys to enter without inspection; women and boys are more likely to enter with border cards.)

The forged document business must be a thriving one along the border, and there are a wide variety of techniques. One can simply forge (or purchase) the document needed to cross the river, such as a Green Card, a birth certificate or a baptismal certificate (the last two attesting to one's citizenship). Or one can, through a fraudulent procedure, obtain genuine crossing documents from the Government; these procedures range from paper marriages to American citizens or Green Card holders, to the "renting" of false relatives to secure a Green Card, to illicitly obtaining a birth

certificate from one of the south Texas county courthouses which are believed to be lax about furnishing applicants with birth certificates on relatively flimsy evidence.

INS maintains in Yuma a forged document center where all of these techniques are studied and catalogued.

The illegals are still largely a part of the farm work force. Of the ones we talked to 72 percent were involved in or seeking farm work, and 28 percent were not. (The latter group included five factory workers, eight construction workers, a printer, a cab driver, a baker, a food processing worker, and four who did not respond.)

A majority of the illegals (78.7 percent) did not have social security cards, with the incidence of such cards rising with the wages earned.

Although the INS policy is to make sure that the apprehended illegal collects his full pay, this remains an area of difficulty, with 30.2 percent of the interviewees contending that they did not receive everything that was owed to them, a smaller group, 12.5 percent said they lost personal property as a result of their arrest, with the loss ranging from a few articles of clothing up to an automobile (perhaps not fully purchased).

A majority of the interviewees responding to the question (69.8 percent) said that they did send part of their wages back to Mexico, usually by money order. Of those responding affirmatively to this question, this was their estimate of the portion of their income returned to Mexico:

TABLE XXV

Portion of Interviewed Illegals' Income Sent to Mexico
(Percentage Distribution)

Less than a quarter	2.6
Between a quarter and a half	25.6
Between a half and three quarters	56.4
More than three quarters	15.4

Source: TransCentury survey, 1969

The illegals we interviewed were about to be returned to Mexico, which is an interesting process in itself.

Those freed from the Port Isabel facility (which is also the location of the Border Patrol's training facility, where a largely Anglo force learns Spanish and the Service's procedures) generally return by plane to Mexico. Port Isabel is a de-activated naval air station, with an intact airfield. They are flown into the interior to prevent their immediate return across the border. Those living just across the border, however, are simply escorted to the Mexican side of the Brownsville bridge.

The men leaving the El Paso center are dispatched by bus to Chihuahua and Jimenez, except for three contingents of 40 a week, which go from El Paso to Presidio where they are joined by other illegals caught locally and shipped by train from there to Chihuahua.

Similarly, men held at El Centro are sent south to

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Mazatlan, a port on the Pacific Ocean, roughly 1,000 miles away.

The general idea is to send the men back somewhere near where they live -- and impede their return to the United States. In the spring of 1969 when the Service was having the all-too-familiar end-of-the-fiscal-year problems, the charter air flights (on Mexican-owned planes, incidentally) had to be cancelled, and the Port Isabel detainees were simply bussed to Matamoras.

INS, in early 1969, started one new program which should help control the employment of illegals in the strip of land which lies between 25 and 150 miles of the border, and includes such major cities as Los Angeles, Tucson, and San Antonio.

Previously one could travel up to 150 miles inland with the border crossing card, and, as mentioned earlier in this report, the date of the last crossing was not recorded on this card, and the card itself is good for life. Hence, a man who had lived for years illegally in San Antonio, could, when stopped on the street by an INS investigator, say that he had crossed the border the previous day, and there was nothing to disprove it.

Now, if the border card carrier wants to go beyond the checkpoints set up 25 miles behind the border, he must secure an additional document, a dated one, which will allow him to go beyond the 25-mile point for a period of two weeks. However,

he now is carrying a document which will run out, and he cannot use it to stay indefinitely in San Antonio, as he could before. This apparently is proving to be a useful enforcement device in the areas behind the border, but has no bearing on the misuse of the border card along the border.

Anyone studying the problem of the illegals develops sympathy (strange to say) for both the illegals and their captors. The illegals are desperately poor, often trying to support their distant families by their work in understandably seeking an escape from unemployment or very low wages in Mexico. (More than half of those responding, 52.3 percent, told us that they made less than eight dollars a week when working in Mexico.)

Their captors, meanwhile, are busily trying to empty the ocean with a spoon.

With the influx of illegals expanding rapidly, the time has come to consider a major effort to stop it. If no stepped-up actions, and sensible ones, are taken, we will shortly be back in the situation we had in the fifties, when labor markets along the border, and inland, were flooded with these hapless and rightless workers.

Several elements would be needed to effect such a change; obviously more men and money allocated to this assignment; better enforcement techniques (such as some of the innovative and expensive ones the Government is now using on the narcotics traffic); a tighter control of all border documents, with

all of them requiring re-issue under fairly stringent conditions, and willingness on the part of Washington to pay all the costs, fiscal and otherwise of such a program.

The non-fiscal costs are serious. For instance, any tightening of border regulations will stir up some resentment in Mexico, although Mexico is less likely to be upset by tighter controls of illegals than it would be by tighter regulation of the legal commuters. Any tightening of the border will slow traffic along the border, which will be an inconvenience for all concerned. A closer check at the border will undoubtedly be both inconvenient and perhaps, in many cases an affront, to American citizens of Mexican descent who will surely receive more attention at the border than Americans of Anglo or black descent. But these costs will have to be accepted, as well as the fiscal ones, if we are to make any progress on limiting the flood of illegals. (The impact of "Operation Intercept", which took place as this report was in its final stages, is outlined in the Appendix.)

Citizen Commuters

There are three ways to secure American citizenship, and the citizen commuters, collectively, used all three approaches. Most (77.6 percent) were born in the United States. The next largest group, 17.6 percent, were born in Mexico to U.S. citizen parents (one parent will suffice), and the smallest group, 4.7 percent, had been born in Mexico, then moved to the United States where they were naturalized.

The citizens, like the Green Card commuters, have a variety of American immigration classifications within their families. Most of these families, like most of the families of Green Card commuters, could not move to the United States without securing one or more additional visas. The 488 members of the citizens',families, include 187 American citizens,40 Green Card holders, and 261 Mexican Nationals. Approximately two-thirds of the fathers were citizens, while about one third of the children were citizens.

The interviewers asked the citizens, "Why do you prefer to live in Mexico, and the most significant response was that the citizen did not move to the United States because he did not want to break up his family; 43.5 percent of the citizens responded in this manner, while the second most frequent response (given by 30.6 percent) revolved around economic reasons. We then asked if the citizens had sought Green Cards for members of their family who lacked them, and 21.2 percent responded affirmatively.

Other Border Crossers

In addition to the three previously cited categories of border crossing workers (citizens, Green Carders and illegals) there are a variety of other border crossers whose presence should be noted, although they do not have much impact on the border area labor markets. We have in mind weekly commuters, seasonal border crossers and temporary workers.

Weekly commuters, by definition, spend only the weekend (or every other weekend) in Mexico, and work in the United States during the week. We have not paid much attention to this group because their impact on the labor market is quite diffused; immigration officials along the border tell us that there are far more daily commuters than weekly ones, and the weekly ones spread all over the Southwest to work, rather than concentrating on the immediate border region. Early morning bridge watchers have told us that there are substantial numbers of workers with suitcases crossing very early on Monday mornings at places like Brownsville, Laredo and El Paso, but there is no collection of statistics on the subject.

Weekly commuters, since they already have some kind of residence -- where they spend four nights a week -- might be viewed as permanent residents of the United States who simply visit Mexico every weekend. They are unlikely to be affected by any of the pending legislation,

which is aimed at the daily commuter.

Some weekly commuters do work in the border area, particularly domestics who spend their one day off or evening off, in Mexico; the work cycle of a domestic is such that she can easily use a border card at the bridge, with scant fear of detection. A woman, particularly one with a shopping bag, crossing at non-rush hours, is rarely challenged; whereas the same person, at 6 or 8 a.m., would more likely catch the eye of the border guard.

Seasonal workers, who spend part of their year in Mexico and part in the United States, like the weekly ones, have a variety of border crossing documents; some are citizens, some have Green Cards, some work illegally on border cards. Sometimes the seasonal workers, who also have been called "international migrants" will spend most of the year harvesting crops (including grapes near Delano) in the United States, and will return to the interior for an off-season vacation; others work for varying amounts of time in American fields, and then return to the border and become daily commuters for part of the year.

Some seasonal workers spend most of their year in the United States, such as those who follow the lettuce harvest. Only during the lettuce season in the Imperial Valley do they live in Mexicali.[5] Others, particularly those whose base is in San Luis or Mexicali, will spend nine months of the year at home, moving into the San Joaquin Valley only

in the summer months when the heat is particularly oppressive, and the farm jobs scarce. (Our interviewer assigned to San Luis found that a majority of the daily commuters whose names he had were in California for the summer.)

Early one morning on the Sante Fe Bridge the author encountered two ladies crossing to work in El Paso clothing factories bearing Mexican passports and H-2 visas; both were sewing machine instructors and had been admitted as temporary workers, and both fall into a relatively rare category of trans-border workers.[6]

These visas are issued by the Department of State (with the concurrence of both INS and the Labor Department) for six months or a year. They are renewable for up to three years. The only data available on this subject is on a nation-by-nation basis, and this shows that roughly 1,000 such visas are issued each year to Mexican Nationals; presumably only a fraction of these involve employment on the border, and a still smaller fraction would go to commuters. (The author saw only two such visas during numerous visits to crossing points during the early morning rush hour, while seeing hundreds of citizens and commuters show their papers to the INS inspectors.) The total number of such visas issued by the State Department follow:

TABLE XXVI

Temporary Worker Visas Issued 1966 - 1968

Fiscal Year	World-wide	Mexico
1968	13,710	1,189
1967	12,584	1,246
1966	9,444	854

Source: Annual Reports of the Visa Office, U.S. Department of State, Washington, D.C.

Temporary Mexican farm workers (braceros), admitted in 1966 and 1967, are not included in the above figures.

Notes on Chapter IV

1. U. S. Department of Labor, Manpower Administration, Statistics on Manpower, A Supplement to Manpower Report of the President (Washington, D.C., Government Printing Office, March 1969).

2. Department of Commerce, Bureau of the Census, Publication, p-23, August 1969.

3. Price, op. cit., p. 20.

4. All seeking to immigrate to the United States must pay $25 in State Department fees and $10 to the Public Health Service for an X-ray. In addition, if the would-be immigrant is entering to join a U.S. citizen relative, he must pay INS $10 for the completion of its form I-130; if entering to join a resident alien, the fee to INS is $3 for its form I-550.

5. "The International Harvesters," Western Grower and Shipper, (Los Angeles, California, February, 1967).

6. These visas are issued under the authority contained in sections 101(a) (15) (H) (i), (ii), and (iii) of the amended Immigration and Nationality Act (66 Stat. 163, 8 U.S.C.1101;79 Stat.911).

V. Commuter-Caused Adverse Economic Effects

The commuters play a variety of economic roles along the border -- they spur the Mexican economy, they reduce Mexican unemployment, their pennies and nickels enrich the owners of the bridges, they buy from American merchants and they have a serious impact on the employment prospects, wages and working conditions of American workers. This chapter will discuss that impact.

The effects of the commuters fall on the working class American residents, and some of those who do business with them, because it is the working poor on this side of the border who are primarily competing with the commuters. (One critic of the commuter program suggested that Mexican doctors, lawyers, and engineers be given the same rights now enjoyed by Mexican farm workers and domestic servants; he suggested that the Border Establishment would be less united in favor of the commuter program should this change occur. Currently State-enforced professional licensing regulations -- rather than any Federal ruling -- protect the U.S. border professional man from this kind of economic competition.)[1]

The commuters cause four kinds of effects on American resident workers, effects which vary in intensity from place to place. These are:

A. lessened employment opportunities.

B. lower wages.

C. lower likelihood of union representation, and

D. the encouragement of seasonal migrations to seek work.

We will look at these effects in turn.

A. Employment Opportunities

Commuters make up a major portion of persons employed along the border. Using the lowest available hard-count figure of 66,135 (the 18,259 citizen commuters counted on January 17, 1966 together with the 47,876 alien commuters counted by INS in August, 1969) and comparing this count with the border counties' total employment figure for 1967 of 853,281[2] we arrive at the figure of 7.7 percent. Using the 100,000 border crossers estimate (including uncounted citizens and Green Carders as well as illegals working in the border counties) the figure would rise to 11 percent, which is the one used by the Nathan Report.

A still more meaningful figure can be derived by comparing the east of San Diego 1967 employment of 484,000 to an estimate of 85,000 commuters east of San Diego, which produces an area-wide figure of more than 17 percent. In some counties, such as Maverick (Eagle Pass), the counted commuters make up 43 per cent of those employed, which suggests that a majority of the workers in the county must live on the other side of the border.

The relative significance of the commuter work force varies sharply from place to place,as indicated in Table XXVII.

TABLE XXVII

Unemployment and Commutation Statistics Selected Border Cities

State: County (Urban Area)	Total Number Commuters*	Total Employment** (1967)	Percent of Commuters of Employment	Unemployment Total** (1967 average)	Unemployment Rate*** (1967 average)
CALIFORNIA					
San Diego (San Diego)	13,248	369,300	2.9	18,100	4.7
Imperial (El Centro/ Calexico)	11.840	28,400	37.1	3,200	10.1
ARIZONA					
Yuma (Yuma)	4,240	24,800	16.1	1,500	5.8
Santa Cruz (Nogales)	1,639	5,150	31.0	250	5.3
TEXAS					
El Paso (El Paso)	17,461	110,450	14.8	4,513	3.9
Maverick (Eagle Pass)	3,074	6,336	46.9	705	10.0
Webb (Laredo)	4,446	25,138	17.7	2,570	9.3
Hidalgo (McAllen)	2,543	55,582	4.3	3,485	5.9
Cameron (Brownsville/ Harlingen)	3,777	44,637	7.5	2,889	6.1

* Sum of Green Card holders counted in survey of August 1969 and citizens counted in January 1966 survey.

** The Nathan Report, op. cit., p. 141.

*** Ibid., p. 143.

Although the statistical concepts are not precisely comparable, it is significant that in seven of the nine areas cited in Table XXVII there are more computers entering the labor markets than the annual average of unemployed U.S. residents. It should be borne in mind that all the statistics in this table are understatements; we calculate that there is at least one uncounted commuter or locally employed illegal for every two commuters who are counted, and, as will be presented shortly, that unemployment statistics, particularly Texas ones, are routinely conservative. These factors tend, however, to cancel each other out.

Table XXVII also suggests a rough correlation between the proportion of the work force living in Mexico and the incidence of unemployment among American residents.

A different estimate of unemployment in one major border city than those presented in Table XXVII is now available. Early in 1969, Project BRAVO, the community action agency in El Paso, surveyed the low-income neighborhoods of the city and county on a 25 percent basis and produced an estimate of 12,100 unemployed in the county.[3] This can be compared with recent TEC unemployment estimates of 4,500 (avg. 1967), 4,695 (Aug. 1968), 3,650 (Jan. 1969) and 4,650 (July 1969). Obviously the TEC figures, which are done in keeping with the Labor Department's National Standards and which rely heavily on the extent to which the unemployed register for work in TEC offices, vary substantially from BRAVO's figures, generated from house-

Fifth line should read: "percent of the work force in the poverty sections of San Antonio had employment prob-"

to-house surveys. It is also likely that the BRAVO estimates reflect both unemployment and underemployment. Perhaps it would be useful to suggest here that the Department's subemployment surveys, which showed, for instance, that more than 47 percent of the work force in San Antonio had employment problems of various kinds, could profitably be used in the border regions. The subemployment concept, covering withdrawal from the labor force, underemployment and sub-standard employment, as well as unemployment is probably a better statistical tool than the classic unemployment measurement, and should be used as a supplement to it.[4]

Given the fact that TEC's methods are used statewide and given that agency's internal record of consistency, it can be assumed that all Texas unemployment figures are comparable. Hence it is useful to look at unemployment figures for the four major metropolitan areas along the Texas border as well as those for the 18 major areas away from the border. This data is presented in Table XXVIII.

Texas border cities, it is clear, regularly are at the bottom of the heap in in terms of employment.

Twice during 1967 the U.S. Department of Labor's Bureau of Employment Security prepared extensive analyses of the impact of the commuter workers on employment and working conditions along the border; both indicated in detail that American residents are adversely affected by the commuter practice.

"The fact the unemployment is heavy and wage rates are

TABLE XXVIII

Unemployment Rates in 22 Texas
Standard Metropolitan Statistical Areas
April 1967, 1968 and 1969

CITY	Unemployment Rate			Unemployment Rank Among Texas S.M.S.A.		
	1967	1968	1969	1967	1968	1969
4 Border S.M.S.A.'s						
Brownsville-Harlingen-San Benito	6.3	5.6	6.2	21	21	21
El Paso	3.7	3.8	3.1	14	18	12
Laredo	9.0	7.8	7.2	22	22	22
McAllen-Pharr-Edinburg	5.3	5.5	4.6	20	20	19
18 Interior S.M.S.A's						
Abilene	3.4	2.9	2.3	10	14	6
Amarillo	2.4	3.0	3.8	5	15	18
Austin	1.7	1.6	1.3	1	2	1
Beaumont-Port Arthur-Orange	3.8	4.0	3.3	17	19	15
Corpus Christi	3.8	3.1	3.2	17	16	14
Dallas	1.8	1.4	1.3	2	1	1
Fort Worth	2.3	1.8	1.7	4	4	3
Galveston-Texas City	3.6	2.8	5.4	14	13	20
Houston	1.9	1.7	2.2	3	3	5
Longview-Kilgore-Gladewater	2.6	2.3	2.3	6	8	6
Lubbock	3.7	2.7	3.1	15	11	12
Midland-Odessa	3.3	2.7	2.4	10	11	9
San Angelo	3.4	2.5	2.6	13	9	10
San Antonio	3.3	2.6	3.3	10	10	15
Texarkana	2.6	2.0	2.9	6	5	11
Tyler	2.9	2.2	2.3	8	7	6
Waco	3.9	3.4	3.6	19	17	17
Wichita Falls	3.1	2.0	2.0	9	5	4

Source: Director of Reports and Statistics, Texas Employment Commission in a letter to the author, August 13, 1969

low in the border towns is not coincidental. Workers residing in Mexico contribute to the labor surplus by filling jobs that American residents would otherwise have -- and frequently take them at wage rates unacceptable to United States residents." So states the B.E.S. report filed with the Select Commission on Western Hemisphere Immigration in April, 1967.[5]

Another report, this one unpublished and entitled, "The Impact of Alien Commuters Upon the Economy of U.S. Towns on the Mexican Border," made the same point, "In the ten year period 1957-1966 the available data permitted 138 comparisons of border county annual average unemployment rates with the State average. In 129 instances the border county rate was higher. If a person lives in a border area there is only one chance out of 15 or 20 that he is in an area where local unemployment is less than what generally prevails in his State...Not only is unemployment greater in the border area, frequently it is very much greater. In Texas, for example, the unemployment rate in the border areas is almost double what it is elsewhere. And in some areas it is three or four times as great..."[6]

It is clear that other factors -- in addition to the presence of the commuters -- create unemployment along the Mexican border. Industry is scarce, agriculture is becoming mechanized, a rapid rate of natural increase more than compensates for any job creation activities and skill levels are low. It is our contention, however, that the commuters aggravate seriously an already bleak economic situation.

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Most of the commuters have the kinds of skills which are also possessed by unemployed American residents. Stanley Knebel's article in Farm Labor Developments reports in detail on the kind of work done by the alien commuters counted in the November-December 1967 survey.[7] As one can note from Table XVI, the leading occupational categories are farm workers (more than 40 percent of the Green Card holders held farm jobs or were seeking farm work), laborers (9 percent) and domestics (7 percent). Other significant categories include sales clerks (4 percent) and sewing machine operators (3 percent).

Commenting on this kind of adverse effect (the displacement of resident workers by alien commuters) the unpublished Department of Labor report cited the results of a Departmental survey made in Laredo in 1961, "When the survey was conducted, unemployment was very heavy in Laredo, 11.3 percent. Large numbers of U.S. workers had the same occupational skills as the alien commuters and were unemployed at the time of the survey. For example, the two garment manufacturing firms in the sample employed 88 alien commuters as sewing machine operators. The Texas Employment Commission office files contained applications from 156 unemployed U.S. (resident) workers with this occupation."[8]

More recently, in his Ph.D. dissertation, Dr. Bryan Rungeling pointed out, "Perhaps the most indicting thing that can be said against commuters in the local (El Paso) apparel industry is that they do occupy jobs that unemployed U.S. citizens are capable of holding." This study revealed

that demand existed in the work-clothing industry for workers while at the same time the state employment service had persons who were willing and able to fill these positions."[9]

Rungeling cities a number of employers who actively favor (one might say discriminate in favor) of commuter workers. The files of the California Rural Legal Assistance office in El Centro, California, include dozens of depositions signed by U.S. resident Mexican Americans in connection with the Gooch case indicating that they had lost jobs because of the preference employers had for commuters.[10]

All of this suggests that not only are American residents competing for scarce jobs with the commuters, jobs requiring the same skills, but that under a number of circumstances the resident who competes goes into the competition with a distinct disadvantage, the fact that he lives in this country. The Equal Employment Opportunity Commission has, thus far, failed to issue regulations which would prevent employers from discriminating against workers on the grounds that they spend <u>both</u> their days and nights in the United States. (To do so would involve some careful legal calculations, but I think it can be done.)[11]

Virtually everything we have said to date about the displacement of American workers by Mexican residents relates to Texas, and this is no accident. In the first place, the

statistical data on this subject, west of El Paso, is the most adequate where it is least needed, in San Diego County. Commuters play a minor role in the labor market there, making up only 2 percent of the labor force; their presence or absence is relatively insignificant when one is concerned with over-all metropolitan area unemployment rates.

The unpublished Labor Department survey compared annual average unemployment rates for San Diego County, and the State of California, and found that in the first three years studied, 1957, 1958, and 1959, San Diego unemployment was generally about one percentage point below that of the State as a whole. In the ensuing years, 1960 through 1966, San Diego's unemployment was about one point more than that of the State as a whole. Although controlling the flow of commuters would be helpful to some groups of American resident workers, a point we will explore in more detail later, it would not make much of an impression on the overall unemployment rates in San Diego County.

The situation is completely different in Imperial County, California, where the unemployment rate generally is in the neighborhood of 10 percent, and where Table XXVII shows that there are three times as many commuters as unemployed residents. Unemployment data is not collected on a monthly basis in this county, as it is not in most

rural counties , and hence we must utilize yearly averages, which hide wide fluctuations caused by crop conditions and the movements, to and fro, of the Imperial Valley-based migrant farm workers. In recent years, the California Department of Employment has reported these unemployment averages for Imperial County, 9.8 percent in 1967 and 8.1 percent in 1968, which are considerably higher than those of the State as a whole.

Unemployment percentages for the Arizona border towns produce a mixture of comparisons:

	1966	1967	1968
Arizona	3.8	3.7	4.1
Yuma	5.1	5.6	4.0
Douglas	3.1	3.8	3.4
Nogales	5.0	5.3	5.7

Of the nine possible comparisons, six show the border counties with higher unemployment rates than the State as a whole, but the differences are not striking.

When we discuss the commuter practice along the border between El Paso and San Diego, we are essentially talking about farm workers. Of the roughly 13,000 counted Green Card commuters in this area, about 11,000 of them are involved in farm work, and most of these are concentrated in the Imperial and Yuma Valleys. These areas -- unlike South Texas -- never did have a resident agricultural labor force sufficient for the needs of the local farmers, and have

always relied on workers from outside the area to harvest the crops. Since the departure of the Oakies, at the end of the depression, the farmers have looked to the south, and have used a variety of methods, some legal, some not, to secure the needed workers.

B. Wage Levels

All else being equal, a worker earns less money, for performing the same kind of work, if he does it on the border rather than further north. Michael Peevey, Research Director of the California A.F.L.-C.I.O. called this the "farther-higher" theory when he testified before the Select Commission in San Diego.[12]

Peevey cited wage rates paid to farm workers, to retail clerks, to shirt pressers and to service station attendents, in the Imperial Valley, in San Diego, in Los Angeles and points north to show the positive correlation between wage rates and distance from the border. Shirt pressers, for instance, according to the California Department of Employment's survey of September 1966, cited by Peevey, were paid $1.30 an hour in El Centro, $1.40 in San Diego, $1.50 - $1.75 in Los Angeles and $1.98 in San Francisco.

The economics of shirt pressing are symbolic of most lines of work in the Southwest, and data on this subject is available from a variety of sources. More specifically, useful information on this subject can be secured from the 1960 Census, from farm wage information collected by the Department of Labor, from non-agricultural wage data, also collected by the Department of Labor, from minimum wage violation information, and from three special surveys taken by the Department, two in Laredo, and one in El Paso.

The 1960 Census data shows median earnings in a variety of occupations in El Paso and five other major Texas cities. The data, as shown in Table XXIX indicates that El Paso and San Antonio are in a close race for the dubious distinction of having the worst paid workers in the state, with El Paso being sixth or fifth among the six cities in 19 comparisons, and San Antonio in 23. It should be borne in mind that this was resident-oriented, rather than worker-oriented data, and the poor wages paid to El Paso commuters are, by definition, excluded from this data.

TABLE XXIX

Median earnings in 1959 of persons in the experienced labor force by sex and occupation

(6 standard metropolitan statistical areas in Texas)

Occupation	El Paso		San Antonio		Dallas		Fort Worth		Houston		Beaumont-Port Arthur	
	Earnings	Rank	Earnings	Rank	Earnings	Rank	Earnings	Rank	Earnings	Rank	Earnings	Rank
All male workers	$4,199	(5)	$3,725	(6)	$4,560	(4)	$4,657	(3)	$4,915	(2)	$5,207	(1)
Clerical and kindred	4,186	(6)	4,272	(5)	4,543	(4)	4,904	(2)	4,871	(3)	5,124	(1)
Salesworkers	4,437	(5)	4,414	(6)	5,562	(1)	4,833	(3)	5,526	(2)	4,776	(4)
Craftsmen and foremen	4,691	(5)	4,346	(6)	4,802	(4)	5,056	(3)	'5,374	(2)	5,833	(1)
Masons	3,246	(6)	3,566	(5)	4,334	(4)	4,414	(3)	4,634	(2)	5,854	(1)
Painters	3,505	(3)	2,993	(6)	3,454	(4)	3,408	(5)	3,605	(2)	3,739	(1)
Operators	3,388	(5)	2,945	(6)	3,861	(4)	4,131	(3)	4,376	(2)	5,381	(1)
Auto service station attendant	2,172	(4)	1,926	(5)	2,498	(2)	2,527	(1)	2,341	(3)	1,831	(6)
Truckdriver	3,334	(5)	3,021	(6)	3,892	(1)	3,748	(2)	3,717	(3)	3,691	(4)
Welders	4,595	(3)	3,710	(6)	4,471	(5)	4,571	(4)	5,343	(2)	5,625	(1)
Service workers	2,788	(3)	2,362	(6)	2,702	(5)	2,833	(2)	2,771	(4)	3,486	(1)
Barbers	3,022	(4)	3,019	(5)	3,519	(2)	3,507	(3)	3,566	(1)	2,985	(6)
Cooks	2,682	(5)	2,577	(6)	2,719	(3)	2,685	(4)	2,987	(2)	4,678	(1)
Guards	3,793	(1)	3,051	(5)	3,291	(4)	3,671	(2)	3,393	(3)	1,808	(6)
Waiters	2,203	(1)	1,454	(4)	1,856	(3)	1,538	(6)	2,174	(2)	1,635	(5)
Laborers, except farm and mine	2,386	(4)	2,057	(6)	2,367	(5)	2,552	(3)	2,903	(2)	3,027	(1)
Manufacturing	2,775	(5)	2,506	(6)	2,843	(4)	3,322	(3)	3,691	(2)	4,655	(1)
Nonmanufacturing	2,337	(3)	1,904	(6)	2,296	(4)	2,413	(2)	2,526	(1)	2,107	(5)
All female workers	1,836	(5)	1,938	(4)	2,322	(1)	1,970	(3)	2,197	(2)	1,615	(6)
Clerical and kindred	2,656	(6)	2,865	(4)	3,125	(2)	2,867	(3)	3,225	(1)	2,748	(5)
Bookkeepers	2,855	(5)	2,864	(4)	3,286	(2)	2,805	(6)	3,331	(1)	2,887	(3)
Cashiers	1,724	(5)	1,617	(6)	2,089	(1)	1,762	(3)	1,785	(2)	1,751	(4)
Secretaries	3,147	(4)	3,089	(5)	3,568	(2)	3,269	(3)	3,707	(1)	3,015	(6)
Stenographers	3,290	(6)	3,322	(5)	3,417	(4)	3,607	(3)	3,791	(1)	3,733	(2)
Telephone operators	2,996	(6)	3,133	(5)	3,353	(2)	3,276	(4)	3,348	(3)	3,408	(1)
Typists	2,601	(3)	2,927	(1)	2,530	(5)	2,584	(4)	2,707	(2)	1,828	(6)
Salesworkers	1,292	(6)	1,478	(4)	1,817	(2)	1,460	(5)	1,900	(1)	1,513	(3)
Operators	1,711	(4)	1,559	(6)	2,223	(1)	1,848	(3)	1,886	(2)	1,576	(5)
Laundry	1,376	(4)	1,279	(5)	1,544	(1)	1,420	(2)	1,403	(3)	1,184	(6)
Private household	617	(6)	745	(3)	799	(2)	709	(4)	831	(1)	637	(5)
Service workers	1,130	(4)	1,171	(3)	1,321	(1)	1,116	(5)	1,316	(2)	1,002	(6)
Industrial attendants	1,388	(5)	1,588	(2)	1,445	(4)	1,190	(6)	1,599	(1)	1,485	(3)
Cooks	1,071	(6)	1,308	(2)	1,262	(3)	1,175	(5)	1,342	(1)	1,203	(4)
Waitresses	984	(3)	929	(4)	1,014	(2)	906	(5)	1,025	(1)	859	(6)

Source: U.S. Bureau of the Census, "Census of Population, 1960." (Reproduced from Report of Select Commission on Western Hemisphere Immigration, Washington, D.C., 1968.)

More conclusive information on farm labor wages -- a category excluded from the Census data discussed above -- was secured in special Department of Labor tabulations of its farm labor data, for November 1966. The following table indicates the average wage rates paid to seasonal farm workers in three labor market areas on the border, and ten away from the border. The ten non-border areas are presented in the order of their nearness to the border, with the more northerly areas, in keeping with the farther-higher theory, showing the higher wages.

TABLE XXX

Seasonal Farm Workers' Hourly Wages - Texas
November 1966

Border areas	
Lower Rio Grande Valley	$ .75
Rio Grande Plains	.77
Trans-Pecos	.83
Non-border areas	
Lower Coastal	.82
Edwards Plateau	.79
Llano-Coastal	.77
Central Texas	1.00
Upper Coastal	.86
Cross Timbers	1.17
Black Lands	.99
East Texas	.86
High Rolling Plains	1.24
Northern Panhandle	1.20

Source: Report of the Select Commission, op.cit., p. 117.

Roughly similar data is available on manufacturing earnings, in El Paso and seven other Texas cities. The data indicate that in all manufacturing and in non-durable

goods manufacturing, El Paso trailed the field in April 1967, 1968, and 1969, and only in durable goods -- not a very significant element in a city whose manufacturing employment is dominated by the clothing industry -- did El Paso not finish last. (Durable goods manufacturing amounted to only 4,735 employees in August 1968 compared to the non-durable employment of 16,145, according to the TEC figures for El Paso.) The manufacturing wage rates are in Table XXXI.

TABLE XXXI

Average hourly earnings in manufacturing industries, 8 major Texas S.M.S.A.'s, 1967, 1968, 1969 (April of each year

	Average hourly earnings								
	All manufacturing			Durable goods			Non-durable goods		
	1967	1968	1969	1967	1968	1969	1967	1968	1969
Texas	$ 2.64	2.86	2.98	2.68	2.89	3.02	2.59	2.81	2.93
El Paso	1.93	2.08	2.13	2.45	2.70	2.70	1.77	1.87	1.97
Austin	2.14	2.34	2.46	1.94	2.18	2.33	2.34	2.56	2.64
Beaumont	3.52	3.69	3.95	3.19	3.40	3.50	3.66	3.81	4.16
Corpus Christi	3.10	3.35	3.51	2.63	2.89	3.09	3.41	3.66	3.77
Dallas	2.46	2.67	2.86	2.62	2.81	3.00	2.19	2.38	2.54
Fort Worth	2.90	3.03	3.18	3.05	3.17	3.33	2.40	2.53	2.64
Houston	3.10	3.24	3.40	2.97	3.09	3.24	3.27	3.44	3.62
San Antonio	2.13	2.26	2.42	2.10	2.19	2.33	2.14	2.31	2.48

Source: Texas Employment Commission

Still another comparison is one favored by the Bureau of Business and Economic Research of the School of Business

Administration at the University of Texas at El Paso. It is a comparison of El Paso to three other cities in the Southwest: Albuquerque, Tucson and Phoenix. These four cities banded together formally in 1961 to become the Southwest Sun Country Association. Recently the Bureau's publication, "The El Paso Economic Review" printed a comparison of the per capita income of these four cities, which follows:

TABLE XXXII

Per Capita Income, Four Southwestern Cities
1950-1967

Year	Albuquerque		El Paso		Phoenix		Tucson	
	Dollars	Percent of Nat'l.	Dollars	Percent of Nat'l.	Dollars	Percent of Nat'l.	Dollars	Percent of Nat'l.
1950	1,472	98	1,467	98	1,360	91	1,304	87
1959	2,306	112	1,758	85	1,990	97	2,082	101
1962	2,339	99	1,744	74	2,204	93	2,250	95
1965	2,669	97	1,970	71	2,625	95	2,315	84
1966	2,798	94	2,343	79	2,831	96	2,471	83
1967	2,973	94	2,499	79	3,038	96	2,713	86
Percent Increase:								
1950-1967	102%		70%		123%		108%	
1959-1967	29%		42%		53%		30%	
Percent Increase in Cost-of-Living								
1950-1967			39%					
1959-1967			15%					

Source: The El Paso Economic Review, July, 1969

Obviously El Paso's relative position in terms of per capita income has dropped drastically in the last 17 years.

In areas of high unemployment and generally low wages, it is a temptation for some employers to still further lower the wage level by paying less than the minimum wage levels. Given the employment and wage levels in the border region, one might expect to find relatively higher incidence of minimum wage violations, and data from the Wage and Hours and Public Contracts Divisions of the Department of Labor meets that expectation.

In Table XXXIII we have compared the population of the border region to the entire State population (for 1960), and then compared that percentage to the percentage of wage-hour violations found in that State's border region. To get an accurate cross-section of wage-hour violations, we secured data on cases handled, amount of dollars found in unpaid minimum wages, the amount of unpaid overtime, and the number of child labor violations. Generally the proportion of unpaid minimum wages in border counties ran well ahead of what might be expected on a random sample basis. (The number of child labor violations found in agriculture, all of 88 in the border counties for the entire fiscal year, would seem to indicate a need for some new enforcement techniques.)

TABLE XXXIII**

Federal Minimum Wage Violations in Border Counties

State and County	Pop.	No. of Cases	Amt. of unpaid min. wage	Amt. of unpaid Overtime	Child Labor violations*
TEXAS					
A. State Totals	9,579,677	6,747	$2,359,515	$4,102,783	2,961
B. Border Counties	793,233	516	597,666	245,972	96
C. B as % of A	8%	8%	25%	5%	3%
Brewster County	6,434	-	-	-	-
Cameron County	151,098	125	298,571	54,471	41
El Paso County	314,070	161	37,050	43,784	17
Hidalgo County	180,904	142	111,647	71,913	32
Hudspeth County	3,343	-	-	-	-
Jeff David County	1,582	-	-	-	-
Kinney County	2,452	2	30	-	-
Maverick County	14,508	13	20,770	6,343	-
Presidio County	5,460	1	7,000	3,400	-
Starr County	17,137	12	5,906	4,977	-
Terrell County	2,600	-	-	-	-
Val Verde County	24,461	5	2,678	6,517	1
Webb County	64,791	54	113,870	49,460	5
Zapata County	4,393	1	144	5,107	-
NEW MEXICO					
A. State Totals	951,023	431	52,793	133,278	68
B. Border Counties	74,748	61	11,790	16,001	8
C. B as % of A	7%	14%	22%	12%	12%
Dona Ana County	59,948	52	3,891	10,612	5
Hidalgo County	4,961	-	-	-	-
Luna County	9,839	9	7,899	5,389	3
ARIZONA					
A. State Totals	1,302,161	394	105,745	449.078	50
B. Border Counties	331,507	135	30,456	118.872	12
C. B as % of A	25%	34%	29%	26%	24%
Cochise County	55,039	10	3,115	1,926	-
Pima County	265,660	102	16,137	102,860	10
Santa Cruz County	10,808	9	2,052	2,109	-
Yuma County	46,235	14	9,152	11,977	2
CALIFORNIA					
A. State Totals	15,717,204	5,249	602,639	5,231,719	902
B. Border Counties	1,105,116	256	98,028	375,588	90
C. B as % of A	6%	5%	16%	7%	10%
Imperial County	72,105	13	2,220	21,772	-
San Diego County	1,033,011	243	95,808	353,816	90

Source: Wage - Hour and Public Contracts Division, U.S. Dept. of Labor

*Non-agricultural only. There were 88 agricultural child labor violations in fiscal year 1968.
**1968 fiscal year findings.

It should be emphasized that this material is for wage-hour violations which have been uncovered, and it, like data on apprehended illegals, reflects two different factors, the extent of the violations and the effectiveness of the enforcement agency. Assuming a relatively even distribution of wage-hour efficiency, these figures suggest a rather uneven distribution of fair labor standards violations.

The Labor Department made three special surveys of alien commuter's occupations and wage levels, twice in Laredo, in 1961 and 1968, and once in El Paso, in 1961. All three indicated crushingly low wages, the significant role of the Federal minimum wage in setting local wage levels, and large numbers of commuters working in low-skilled occupations. The most recent Laredo survey, conducted before the $1.60 an hour minimum wage went into effect, showed that 75.6 percent of the 608 commuters surveyed were making $1.40 (then the minimum) or less, with 47.7 percent of those surveyed being paid precisely $1.40 an hour. Farm workers and domestics, two large groups of workers who do not enjoy the protection of the standard minimum wage, were excluded from the survey. Were they to be included, the wage rates in the table which follows would be further depressed.

The 1968 survey, incidentally showed that commuters and resident workers were always paid the same wages when

TABLE XXXIV

Percentage Distribution of Commuters* by Wage Rate, Laredo, Texas , January 1968

Wage interval	Percent of total**	Cumulative percentage**
$ .70 and less	4.6	4.6
.71 to $ .80	1.1	5.7
.81 to .90	.2	5.9
.91 to 1.00	6.3	12.2
1.01 to 1.10	5.0	17.2
1.11 to 1.20	1.1	18.4
1.21 to 1.30	3.9	22.3
1.31 to 1.39	5.6	27.9
$1.40	47.7	75.6
1.41 to 1.50	3.6	79.2
1.51 to 1.59	.5	79.7
$1.60	7.9	87.6
1.61 to 1.70	5.0	92.6
1.71 to 1.80	1.3	93.9
1.81 to 1.90	.3	94.2
1.91 to 2.00	2.0	96.2
2.01 to 2.10	.5	96.7
2.11 to 2.20	.5	97.1
2.21 to 2.30	.5	97.6
2.31 to 2.40	.3	97.9
2.41 to 2.50	.7	98.6
2.51 to 2.60	.2	98.7
2.61 to 2.70	.2	98.9
2.71 to 2.80	0	98.9
2.81 to 2.90	0	98.9
2.91 to 3.00	.5	99.4
Over 3.00	.6	100.0

* Excludes farmworkers and maids in private households.

**Percent of all commuters in the 48 occupations covered by the survey.

NOTE: Due to rounding, percentages may not add to totals.

Source: Wage survey conducted by the U.S. Department of Labor, January 1968.

employed in the same occupations -- the earlier survey in Laredo indicated the contrary, that in a number of instances firms employing both commuters and residents would pay the commuters at a lower rate. The earlier survey had found that in 15 surveyed occupations firms employing only residents paid more than firms employing both commuters and residents; it also found one occupation where the wage rates were the same, and three others, (fountain girl, bell boy and waiter) where firms employing both residents and commuters paid more than those who employed only residents. This data, which indicates weekly average wages (sometimes supplemented by tips) of $12, $14, $15, $16, $17 and $20 a week, is tabulated below.

TABLE XXXV

Occupational wage structure, Laredo, Texas, June 1961

Industry and occupation	Average wage rate (per week)	
	Firms employing only domestic workers	Firms employing domestic and alien commuter workers
Hotels and motels:		
Cook	$58	$34
Maid	20	17
Hall boy	25	20
Waiter	[1] 15	[1] 18
Busboy	[1] 25	13
Bartender	58	46
Bellboy	[1] 15	[1] 16
Drugstores and related firms:		
Cashier	27	12
Stock clerk	52	40
Fountain girl	16	[2] 23
Drug clerk	77	55
Grocery and related firms:		
Cashier	$24	$24
Stock boy	35	20
Produceman	45	35
Butcher	65	52
Warehouseman	37	31
Miscellaneous retail firms:		
Porter	53	35
Warehouseman	73	21
Stockman	53	45

[1] Plus tips. [2] Plus $3 meal allowance.

NOTE.—Data were collected in the survey concerning the different rates paid each occupation in each firm. For some occupations monthly rates were reported; these were converted to weekly rates by dividing the monthly rate by 4.33. The number of workers paid each rate was not reported in all cases, making it impossible to compute an average rate weighted by the number of workers paid each rate. The average rates shown in the table represent the average of the highest and lowest rates paid. These averages correspond quite accurately with the weighted averages computed for the few occupations where data were reported for each worker.

Source: Report of the Select Commission on Western Hemisphere Immigration, p. 121.

The El Paso survey in 1961 found (as did both the Laredo surveys in 1961 and 1968) that most of the commuters surveyed were in the "less skilled and more menial occupations."[13] In a number of instances wage information was not available, but when it was it showed that in one half of the occupations under study the wages paid to alien commuters were lower than that which unemployed workers registered with TEC indicated that they would accept. Occupations in this category included sales positions, cooks, laundry workers, painters, carpenters and factory jobs.

Our 1969 survey covered wages paid to commuters, but not to non-commuters. Hence we have some information on hourly wage rates, but in only a few categories can these be compared to other, existing wage information. We can, for instance, make these comparisons regarding garment workers:

Green Card Commuters Into Texas	All Texas Garment Workers	El Paso Non-Durable Goods Workers
$1.66	$1.94	$1.98

Source: 1st column: TransCentury survey, 1969
2nd " BLS; both of these columns reflect July 1969 date;
3rd " is from Manpower Trends, TEC; data is for January 1970.

We can also compare data on farm workers' earnings, though this is complicated by the different concepts involved. The Department of Agriculture's data deals with hourly wages (and does not consider the question of piece rates). We asked our

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interviewees to estimate their hourly earnings, if they worked on piece rates. The following data is for July, 1969:

	Green Card Commuters (survey data)	All hourly paid farm workers (USDA data) *
California	$1.60	$1.80
Arizona	$1.43	$1.45
Texas	$1.41	$1.28

Another, perhaps less useful comparison would be between the wages earned by all commuters going into El Paso and San Diego, with the BLS data on hourly earnings of all production workers in those two SMSA's. Although the comparison does not reflect the same occupational distribution, it does show something of the wage spread between commuters, generally, and blue collar workers, generally, in those two places.

	Green Card Commuters (survey data)	All Production workers (BLS data)
El Paso	$1.56	$2.10
San Diego	$2.05	$3.92

Of the seven rather rough and ready comparisons noted here, two covering garment workers, three covering farm workers, and two commuters and production workers generally, we find that in six instances commuters' earnings are less than that of the work force to which they are being compared. The somewhat surprising exception is in the case of Texas farm workers. These comparisons, though not conclusive in and of themselves, generally coincide with the other wage and earnings data produced in other reports mentioned earlier.

* without room and board

C. Union Organization

One of organized labor's principal complaints -- perhaps its principal complaint -- against the commuter system is that it discourages the unionization of a depressed work force. This is often expressed in terms of "strikebreaking" , although actual instances of commuter strikebreaking , dramatic though they may be, are relatively rare.

Much of the current thrust toward some control of the commuter traffic has been generated by the unions -- hence the question of difficulty of organizing workers along the border has received more attention than a less dramatic by-product of the practice, such as the encouragement of migrancy during the summer time.

Commuter strikebreaking is very irritating to the labor movement, because it destroys one specific organization's effort while simultaneously discouraging organization generally. We have discussed on pages 54 - 57 efforts to remedy the situation through administrative action, and on page 63 the current attempt to stop the practice through legislative action.

A particularly dramatic example was the use of commuter strikebreakers (presumably both alien and citizens) in the strike of the Starr County melon pickers during 1966 and 1967. The strike had been started by a footloose Anglo volunteer working with Cesar Chavez, Eugene Nelson,

who stopped off in Rio Grande City on his way back to Delano. He was appalled by what he saw and on June 1, 1966 a group of field workers left the fields, seeking recognition and higher wages. At first the group was an independent one, but later it affiliated with Chavez' organization in Delano.

The growers, whose fields are in sight of Mexico, and who had close working relationships with local lawmen immediately replaced the departed field workers with a fresh supply of commuters, and the strike, from the first, was destined for failure. But before the strike was abandoned, following the devastation of Hurricane Beulah, it attracted a lot of attention, and dramatized the role that commuters can play in such situations.

This was the strike which:

1. Caused the Justice Department to issue its largely futile regulation against the employment of newly hired Green Card commuters in strike situations.

2. Caused the American and Mexican unions to cooperate -- if only briefly -- in stopping the flow of Green Card strikebreakers. On May 11 and 12, 1967, Mexican unionists carried the red strike flag while they picketted the Mexican side of the Roma bridge, and the commuters refused to cross the picket line; on the third day the pickets were withdrawn, and the strikebreakers renewed their work for the Starr County farmers.[14]

The most notable American labor dispute, involving the utilization of alien strikebreakers, is, of course, the one between the California grape industry and the grape pickers, led by Cesar Chavez. We draw two distinctions, however, between the utilization of daily commuters in a labor dispute, such as those in Starr County and in the Coachella Valley (see page 57), and the utilization of seasonal border crossing Mexican residents, as in the continuing strike in Delano (which is 260 miles north of the border). The first distinction is essentially a pragmatic one, in that it would be much more difficult to obtain governmental action to control the employment of resident aliens (or those who can make a reasonable claim to such residency) than it would be to control the employment of strikebreakers who obviously do not live in this country. The second distinction is this: since the dispute in Delano involves seasonal migrants from Mexico, rather than daily commuters, we regard it as being outside the scope of this study.

Other recent strikes broken by daily commuters include one at Southland Cafe in Laredo in 1967 (where the workers were unhappy with 25 cents an hour wages according to Texas A.F.L.-C.I.O. union official Henry Munoz),[15] two strikes in Cameron County during 1965 and 1966, both rapidly broken by the employment of commuters,[16] and a strike

against the California Laundry in San Diego.[17] The list is not a long one but every one of them has proved to be a major obstacle to the organization of workers along the border.

Strikes of any kind are rare on the border, particularly the Texas border. Thumbing through the Manpower Trends reports for the four TEC areas on the border, El Paso, Laredo, McAllen and Brownsville for the first eight months of 1969, we find only the slimmest evidence of industrial unrest. In six of the eight months there were no workers idled by disputes (to use the awkward TEC terminology) in El Paso and in two months there were 135 and 155 workers (out of a labor force of 122,000) so idled. One small strike involving 15 people was the only one reported in Laredo, and it persisted through the eight months. There was not a single strike to mar the record in McAllen, and Brownsville reported three months of no strike activity, and during five months either 90 or 180 workers were out of work (out of a labor force of some 50,000).

One element should be noted; strikes involving workers with few skills can be broken by the use of commuters, but disputes involving skilled workers are not broken. There have been strikes along the border of copper miners and construction electricians in the last few years in which the employers made no effort to break the strike by using either resident or foreign workers.

It is generally agreed that Mexican residents breaking strikes do so out of dire need of employment (of any kind) and out of ignorance of the nuances of American labor relation practices. Life is simpler in Mexico. If a union actually calls a strike, which is rare, it is against the law to work at the struck plant. Commuters see that the American company continues to operate and hence assume that there is no strike.[18]

Further, we have encountered numerous comments to the effect that commuters hesitate to take part in a strike for fear that their employer -- in some way -- will be able to get their Green Card cancelled.[19]

Underlining both the relatively low incidence of strikes (and the commuters' apparent unwillingness to talk about participation as either strikers or strikebreakers) only 19 of the 400 Green Card commuters indicated that he had been a striker, and none admitted that he had helped break a strike.

Strikebreaking , however, is just the most dramatic way that commuters are used to discourage union activities; it is not the only one. Simple non-interest in joining a union is probably more significant, if less obvious. Few commuters are union members -- our survey showed only 43 out of 400 -- and union officials are unanimous in their statements that the commuter is particularly difficult to

organize. State labor relations laws, particularly in Texas and Arizona, are designed to discourage labor organization, and these laws are particularly effective along the border.[20]

An employer using commuters has one obvious advantage if he wants to discourage unionization. If he employs enough commuters to fill one or more buses he can make sure that the workers get to work on time (and are never sullied by contact with union organizers on American soil) by the simple expedient of sending a bus to the bridge to pick up the workers, and then sending them home at night in the same vehicle. The bus unloads at the plant, and loads up again behind a fence. This tactic was described by Senator Yarborough during Senator Edward Kennedy's hearings in 1967.[21]

La Casita farms used similar portal-to-portal tactics during the Starr County strike.

There <u>are</u> a number of commuter union members, however, particularly among those working in a variety of occupations in San Diego and in the garment trades in El Paso. The presence of these union members has produced some interesting by-products, for instance, local union leaders in San Diego did <u>not</u> testify at the Select Commission hearings, apparently on the dual grounds that the California State A.F.L.-C.I.O. was going to carry the ball, anyway, and that such testimony

might be awkward for business agents whose membership included a substantial nubmer of commuters. Further, sometimes local unions in the San Diego area will hold some of their meetings in Juarez out of consideration for their south-of-the-border members.[22]

In an effort to secure quantitative information on this subject, we looked at union membership data for four unions whose membership potential varies little from one part of the Nation to another. We talked with the United Brotherhood of Carpenters and Joiners, the International Brotherhood of Electrical Workers, (regarding their construction membership), the Communication Workers of America (CWA) and the Retail Clerks International Association -- all of whom represented occupations which are as widely represented along the border as elsewhere. In each instance we asked for membership data in border and non-border cities in California and Texas. The results are noted on the next page.

TABLE XXXVI

Comparative Union Membership
Border and Non-Border Cities

State/City	Retail Clerks	Carpenters	Electricians	CWA	1960 City Population
California					
*San Diego	4,854	7,035	348	1,310	573,000
San Francisco	11,000	23,948	1,860	3,271	740,000
Texas					
*El Paso	383	342	259	no data	275,000
Austin	100	1,126	317	no data	186,000
Fort Worth	3,874	1,266	639	2,134	365,000
*Laredo	0	113	0	127	60,000
San Angelo	0	169	108	no data	59,000
Tyler	30	389	105	243	51,000

* Indicates border city.

Source: Correspondence with the four unions.

It appears from this limited data that inland cities tend to have a higher proportion of union members to total population than border cities do.

D. Encouragement of Migrancy

A person does not become a migrant farm worker if he has any other possible method of making a living.

In the first place, farm work (being physically demanding and ill-paid) attracts only those who (for a variety of reasons) have no alternative.

Given the occupation -- farm work -- one would prefer to stay in one place, rather than taking one's families into the migrant stream, or leaving the family for long periods of time.

Despite the uncertainties, indignities, low wages, and miserable housing, approximately 100,000 border county residents belong to families who work every year in the migrant stream. Starting from their homes, all along the border, they spread all over the Nation in their annual search for work. In the past, Southwest-based migrants generally confined their search for work to that part of the Nation west of the Appalachians, but in recent years Texas-based migrants have started moving up and down the east coast (in competition with the Florida-based black crews).

Predictably, the border counties reporting the largest number of migrants are the poorest ones. But it is also interesting to note that many of the largest migrant- producing counties are ones (such as Imperial and Yuma) which regularly import large numbers of commuting farm workers.

The second column on the following table shows by home base the number of members of migrant farm worker families, this is a Public Health Service estimate for the 1967 season. These people leave the border to seek work elsewhere. The first column shows the total number of aliens and citizens legally commuting into the same counties, for both farm and non-farm jobs.

TABLE XXXVII

Entering Commuters and Departing Migrants

STATE/County	In Flow of Alien and Citizen Commuters from Mexico	Out Flow of Members of U.S. Residents Migrant Families
TEXAS		
Cameron	3,859	15,000
Hidalgo	2,461	37,500
Starr	105	3,300
Zapata	0	600
Webb	4,446	7,500
Maverick	3,074	6,200
Val Verde	450	1,500
Hudspeth	380	120
El Paso	18,819	900
ARIZONA		
Cochise	777	300
Pima	8	3,762
Yuma	4,240	4,244
CALIFORNIA		
San Diego	13,959	3,945
Imperial	11,109	10,787
TOTALS	63,687	95,658

Source: First column from Tables VII and VIII; second column from 1969 Report of the Committee on Labor and Public Welfare.

These are some statistical difficulties with these two sets of figures; one measures family members (and presumably about a 3rd of them are not workers)and the other measures the entire commuter work force including many non-agricultural workers. Further, the

commuter figures are, as suggested earlier, understatements, and it is hard to gauge the accuracy of the PHS figures (counting migrants is always difficult).

Nevertheless, these figures do show, in a rough way, that there is significant movement of commuting Mexicans into the very counties from which significant numbers of American residents leave each spring, seeking work in the North.

Perhaps even more significant are the variations from one county to another; in some very poor areas, such as in the Valley, the number of incoming commuters is much smaller than the number of outgoing migrants, suggesting that stopping all the commuters at the bridge would help free jobs for some of the out-migrants, but not for many of them. On the other hand, far more workers enter the cities of El Paso and San Diego than migrants leave. It is interesting that the two places where farm work is most important, San Luis and Calexico, are the two where there is the closest balance between arriving commuters and departing migrants.

As indicated earlier, it is our belief that the influx of close to 100,000 border crossers into the border counties and the departure of some 100,000 farm workers and their dependents from these same counties must have a relationship to each other. Those arriving and those leaving have much in common; they are Mexican Americans; they are generally poor; their skills are generally minimal, though the border crossers

work at a much wider range of occupations than the migrants do. It is our contention that the pressure of the commuters on the labor market has caused a greater exodus of border area farm workers than would be the case without this pressure. It is regrettable however, that available statistics (including those we generated) can not cast more light on this subject.

E. Impact on Retailing Near the Border

There are some indications that some border -- or near border business interests are adversely affected by commuting. Retail establishments in border crossing points can, and do, benefit from the purchases of both passing commuters and other residents of Mexico. But owners of establishments a few miles from the border receive no such benefits, while seeing employment which might go to potential customers in their town go to commuters.

For instance, an El Centro, California,auto dealer, complained at the hearings held by Congressman Tunney that commuters did not do him any good.[23]They take jobs from American residents, he said, and they are not good enough risks to get auto loans from banks (how do you collect on the other side of the border?). Further, they often buy gas in Mexico, and don't buy any insurance, anywhere,which ultimately runs up the cost of auto insurance to American residents. We have encountered similar testimony from businessmen in Brawley, another back-from-the-border community in the Imperial Valley. These comments, however, are relatively rare, largely because most retailing anywhere near the border is right on the border.

F. The Domestics

There is no "servant problem" on the border.

Mexican maids, who get across the border in a variety of ways, can be hired for as little as $10 and $12 a week. In fact, the Texas Employment Service in El Paso will find one for you from among those registering for work for $3 a day, and I imagine the local offices in the Valley would demand even less.

As a result, families with relatively modest incomes can and do have servants but if the husband were to be transferred elsewhere in the country the family might find household help receiving more for a day's work than the Mexican maid received for a week's efforts.

Some of the maids are Green Card commuters -- we found 18 among the 97 women we interviewed (and the record for the lowest wage in the survey goes to the 25 cents an hour earned by one lady in the Valley). Some of the maids are citizens, but probably the largest group are the illegals.

Maids have relatively little trouble coming and going with border crossing cards for several reasons. In the first place, INS is not very militant about catching them, although the Service regularly apprehends a couple of hundred a month at the El Paso crossing points.

Secondly, many of the illegals domestics live-in and cross the border very infrequently. Sometimes they

only have a day off every other week, and often they are so far from home that they can not afford the trip more than a couple of times a year. (Currently, there is a substantial number of maids in El Paso from Durango, which is about 675 miles away.)

Thirdly, those who cross the border daily have worked out the necessary techniques quite deftly. One does not cross during the rush hour, in either direction; one always carries a little brown bag, generally with the same pair of new socks in it, or something on that order. If stopped in the morning the lady explains that the socks are not the right size, and she must exchange them; if stopped in the afternoon, which is less likely, she would explain that she had been shopping in El Paso, and all she could buy were the socks for her child.

The large supply of Mexican domestics has two indirect effects on the border labor markets, as well as the obvious direct one of depressing wages for housework:

1. It allows resident housewives to leave their homes and children and work at relatively low paid jobs; it can be argued that the willingness of the lady of the house to work at the minimum wage, for instance, is tied to the fact that she can hire a maid for $10 or $12 a week, and hence the presence of an inexpensive maid acts indirectly as a labor

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market depressant.

2. Since a relatively large portion of the population, including the resident Mexican American leadership in most cases, employs inexpensive domestic labor, it serves to strengthen the employers' position in favor of a loose border.

There is relatively little sentiment along the border to change rules regarding maids. Time after time the interviewers and the author talked with people vehemently in favor of doing something about the Green Card commuters who would say, in the next breath, "but we really have to leave the maid situation alone. They really don't take jobs from American residents. They are usually very young, and they don't stay maids very long; they get married and quit. An besides they allow housewives here to hold jobs..."

What they don't tell us, I am sure, is that their wives have a pretty strong position on this matter, too.

Notes on Chapter V

1. See Father Pena's testimony before the Select Commission, Hearings -- Part III - Brownsville, op. cit., p. 18.

2. The Nathan Report, op. cit., p. 141.

3. U.S. Department of Labor, Texas Area #5 CAMPS plan (Austin, Texas, 1969).

4. The Department of Labor, in the April 1967 Manpower Report to the President, (p.75) defined the subemployment concept as follows: "The "sub-employment" concept and index include:
   1. People classed as unemployed, since they were jobless and looking for work during the survey week;
   2. Those working only part time though they wanted full-time work;
   3. Heads of households under 65 years of age who earn less than $60 a week though working full time; also individuals under 65, not heads of households, who earn less than $56 a week on a full-time job (the equivalent of $1.40 an hour for a 40-hour week);
   4. Half the number of "nonparticipants" among men aged 20 to 64 (on the assumption that the other half are not potential workers, chiefly because of physical or mental disabilities or severe personal problems); and
   5. An estimate of the male "undercount" group (based on the assumption that the number of men in the area should bear the same relation to the number of women that exists in the population generally; also that half of the unfound men are in the four groups of sub-employed people just listed -- the others being either employed or not potential workers)."

5. Select Commission Report, op. cit., p. 123.

6. This is in the files of the Farm Labor and Rural Manpower Service, U.S. Department of Labor, Washington D.C.

7. Knebel, op. cit., p. 13.

8. From the unpublished study of the U.S. Department of Labor, Bureau of Employment Security, Office of Farm Labor Service, "The Impact of Alien Commuters Upon the Economy of U.S. Towns on the Mexican Border," October, 1967.

9. Rungeling, op. cit., p. 143.

10. See Chapter II, pp. 67 - 69.

11. Conversations with E.E.O.C. members and attorneys over the past three years.

12. Select Commission, Hearings -- Part II -- San Diego, op.cit., p.24.

13. Select Commission Report, op.cit., p.122.

14. From Hearings before the Subcommittee on Migratory Labor, op. cit., Rio Grande City, June 1967, pp. 449-450.

15. Ibid., pp. 618-619.

16. Select Commission, Hearings -- Part III -- Brownsville, op. cit., p. 86.

17. Interview with Fred Martinez, San Diego, May 1969.

18. Testimony of William Kircher, A.F.L.-C.I.O., p.83 of unpublished hearing held by Senate Subcommittee on Immigration and Naturalization, op. cit., September 1967.

19. Conversations with labor leaders in El Paso, San Diego, Yuma and Laredo during 1969.

20. See report prepared by the Texas Advisory Committee to the U.S. Commission on Civil Rights, "The Administration of Justice in Starr County, Texas," June 1967.

21. Hearings of Senate Subcommittee on Immigration and Naturalization, op. cit., September 1967, p. 32.

22. Select Commission Hearings -- Part II -- San Diego, op. cit., p. 106 and interviews with union officials, San Diego, May 1969.

23. From the unpublished transcript of hearings on Green Card commuters held by Congressman Tunney in California, p. 176.

VI. Participation in Federal Programs

From most American viewpoints the border crossers do not live an enviable life. The work is hard, the pay is low, there is the daily inconvenience of crossing the border, and there are many mouths to feed. Most of the Border Crossers are members of the working poor.

Once that has been said, however, it must also be said that the border crossers do have a much higher standard of living than their neighbors in Mexico, and probably have a slightly higher real income than American residents earning the same amount of money. They also--and this is the thrust of this chapter--have access to many of the benefits of the Federal social programs while paying less than their fair share of the price.

A. Social Insurance Programs

There are three basic social insurance programs in effect in all of the border States (social security, unemployment insurance and workmen's compensation) plus temporary disability insurance in California.

Social security is the widest of the programs, covering just about all work, legal and illegal, in the United States. (For instance, work done by an illegal entrant is subject to social security coverage.)

The three different kinds of border crossers had differing kinds of experience with the social security program, as noted in the table below:

TABLE XXXVIII

Social Security Experience of Border Crossers
(Percentage Distribution)

Activity	Green Card Commuters	Illegal Entrants	U.S.Citizen Commuters
Possession of card			
Yes	99.0	21.3	98.8
No	1.0	78.7	1.2
Deduction of social security taxes			
Yes	94.5		81.2
No	4.0	no data	17.6
Don't know	1.5		2.4
Filed for benefits			
Yes, collected	1.0		2.4
Yes, did not collect	.8	no data	0
Never filed	98.2		97.6

Source: TransCentury survey, 1969.

Given the uniformly high presence of social security cards among both citizens and alien commuters, the lower rate of social security tax deductions among the citizens is puzzling. (It may have been that they were unaware of social security tax payments deducted from their pay, or it may reflect the citizens concentration at the eastern border, where we found a higher incidence of non-payment of social security taxes among the Green Card commuters.) Even more interesting is the very low rate of social security tax payments by the citizens' employers.

Social security benefits, are, as they should be in an insurance system, payable to people qualifying for them, no matter where they live. The low percentages seeking benefits reflects, among other things, the relative youth of our respondents.

Medicare is also available to all social security beneficiaries, regardless of residence, but with the exception of some tightly defined emergency situations, all medical services must be provided within this country. This would suggest that it would be the best interest of the retired commuter to remain in the area near the border, rather than returning to the interior of Mexico.

Reflecting the generally poor wages received by Mexican Americans, the Social Security Administration's analysis of benefits being paid beyond the Nation's borders indicates that the average payment to a beneficiary living in

Mexico is among the lowest in the world. In Mexico, the 17,382 beneficiaries, which constitute about 8 1/2 percent of the total 202,125 beneficiaries outside the United States, receive an average of $54.29 each per month. This is considerably lower than the total average monthly benefit of $78.40 of all beneficiaries living abroad.[1]

Workmen's compensation is totally employer-financed, unlike social security which is jointly financed, and also payable to an injured worker, no matter where he lives. One would suspect that the injured border crosser, with his relatively low level of sophistication and often inadequate English, would be more likely to lose his rights in the workmen's compensation wilderness than he would in the rather more straightforward social security procedures. The fact that both private insurance companies and State agencies have roles to play in workmen's compensation, and that a lawyer's services are usually needed, indicates the complexities. We have, however, little firm data on the subject.

We were told in Yuma that often an injured Mexican American will live in Mexico, rather than in Arizona, after suffering a major injury. With the awards being inadequate, this is the only way that workers can survive.

Unemployment insurance, again employer-financed, is administered by the State Employment Security agencies under a rather loose set of Washington-imposed regulations.

Both California and Texas ask that the claimant present an American address when he applies for unemployment insurance, but neither demands that he live in the United States.[2] As a result, a substantial number of claimants live in Mexico and make a weekly visit to the border city claims office to assure themselves of a continuing benefit.

Arizona on the other hand formally requires an American residence.[3] This provision, inserted in the law by the powerful mining interests, can be enforced anytime an employer requests that it be enforced. (Routinely, in all States, employers receive notice that a former employee has filed for unemployment insurance; An Arizona employer, knowing that a former worker was a border crosser, can quash his claim simply by informing the State agency of this fact.) In Yuma we encountered some stories that, on occasion, some border crossers not only were barred from benefits, but had to pay back previously secured unemployment checks.

Unemployment claims filed across the Texas border often are claims against States other than Texas.[4] The Laredo office, for instance, handles a number of claims against California firms filed by Mexican residents who have secured work credits in that State, have lost their jobs, and have returned to Nuevo Laredo and points south. Similarly the Rio Grande City itinerant service point--an outreach location of the McAllen office--handles substantial numbers of residents in Mexico who work, seasonally, in the Middle West,

and return home after the cannery closes, or the auto plants shut down for model changes. Needless to say an unemployment check from a liberal industrial State will go much further in Mexico than it would in the State where it is written. Unfortunately, since trans-border applicants use U.S. addresses, no separate statistics on commuting U.I. applicants can be secured. Our own survey showed, however, that 12.75 percent of the alien commuters had successfully filed for unemployment insurance, and another 1.75 percent had filed but failed to collect. None of the citizen commuters had sought unemployment insurance.

Commuting farm workers--like all farm workers--are not covered by unemployment insurance in any of the States, are supposed to receive social security coverage under most circumstances in all the States, and are covered by workmen's compensation in California, but are not in Texas nor, for practical purposes, in Arizona.

Commuting farm workers heading into California are covered by that State's temporary disability law, which covers the worker against off-the-job accidents. Farm workers, generally, however, have not taken advantage of their rights under this rather obscure program, which is worker-financed; this is true to such an extent that the State of California actually makes a profit by extending coverage to farm workers!*

Commuters, though residents of Mexico, are not covered by that nation's social security program, because they do not work there.

Trans-border workers--in summary--have roughly the same rights to American social insurance programs as resident workers.

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*Our survey of the 152 aliens in our sample who commuted into California showed that 20 had sought these benefits, with 14 receiving them, five failing to receive them, and one claim pending.

B. Health and Welfare Programs

While the social insurance programs are all worker-oriented, and operate on some variations of an insurance scheme, health and welfare programs tend to be family oriented and flow from poor law precedents rather than insurance ones. As a result, the commuter has far less access to health and welfare programs, which are particularly stingy in the border counties.

Generally actual residence is required for the various welfare programs, but in a number of instances this is skirted by dual residence systems (such as contending to the case worker that one lives in Calexico with one's sister, while one really lives in Mexicali with one's husband).

In some instances the State requires actual residence for as long as 25 years! Arizona requires this seniority before it will part with any aid to the blind or old age assistance funds, and calls for 15 years actual residence before it will provide aid to the permanently and totally disabled. These long residence requirements are being attacked in court by Arizona's Legal Aid Society, an attack which will probably succeed because of the Supreme Court's ruling against all residency regulations.[5]

Our survey indicated that only 1 percent of the alien

commuters (a total of 4) had sought to collect welfare benefits in the U.S. and two of them had received it. Another two had successfully secured similar assistance in Mexico. One of the citizen commuters had tried, in vain, to secure U.S. welfare benefits.

The food programs, both food stamps and surplus commodities, tend to cover more families than the cash welfare system, and hence open up some more opportunities for trans-border transactions.[6]

A handful of the border crossers we interviewed had sought food stamps or surplus commodities; one of the 85 citizens had successfully applied, as had 11 of the 400 Green Card holders; three other Green Carders had tried, and failed, and a fourth was still trying.

A Department of Agriculture audit, reported in the press, showed that so many surplus food items, principally powdered milk and cornmeal, were appearing in Nuevo Laredo that the local authorities cut by half the quantities of these items being distributed in Webb County.[7] (A lady in Laredo told me that her Green Card commuter maid, in this instance receiving the sensational weekly wage of 25 dollars (or three times the prevailing wage) had wangled some surplus commodities and wanted to share her good fortune with her employer.)

The commuters play another, indirect, role in the welfare programs; by taking jobs from residents they force residents onto the relief roles. A couple of instances of this were cited by California Rural Legal Assistance in papers prepared for the Gooch case. [8]

Two women, both on welfare, both wanting to get off welfare, and both living in Calexico, told of their repeated attempts to get work at the farm workers shapeup in "The Hole" (a paved area a few blocks from the port of entry) and their repeated failure, because of employers' preference for commuters (who are less likely to press for their rights). [9]

Although the food and welfare programs sometimes can be manipulated by commuters, particularly by families who can claim an American address, the vocational rehabilitation program sanctions services to non-residents in a number of situations.

The Rehabilitation Agencies are client-oriented, have both Federal and State funds available to them, and are not under the kinds of cut-the-welfare-budget attack so familiar to the local welfare officials.

We found in Arizona, that a resident of Mexico referred to the Division of Vocational Rehabilitation by either the Social Security Administration or by the workmen's compensation system would receive services. The Texas State Rehabilitation Division manual calls for the extension of such services

to social security disability beneficiaries, regardless of citizenship or place of residence.[10] The California policy, according to its director, "...does not specifically cover holders of Green Cards or persons living in Mexico. The department, however, only accepts applications from those persons residing in California or whose intentions are to reside in California."[11]

In general, it appears that an alert commuter could probably secure vocational rehabilitation services if he pressed the point.

C. Poverty and Manpower Programs

The poverty and manpower training programs which blossomed during the Kennedy and Johnson years were designed for residents of the Nation, but this has been enforced rather indifferently along the border.[12]

The principal difficulty is the dual address system which is so common--a system which confuses every government agency along the border save the Post Office, which helps make it possible.

The poverty and manpower programs make no distinction between citizens and Green Card residents of the United States, and that is as it should be. On the other hand, unless the service-providing agency actually makes an effort to fend off the border crossers, there can be a program leakage to residents of Mexico.[13]

Let's look at two different manpower programs, both mounted in Texas.

The Project SER operation in El Paso is run by an all Mexican American organization created by an amalgamation of the American GI Forum and the League of United Latin American Citizens. SER tends to be understandably sensitive to the feelings of the resident Mexican American community and hence goes to the trouble of having residence interviews before admitting anyone to its programs. Similar training programs run by the Texas Employment Commission in the same

town lack residence interviews, and leave themselves open to commuter intrusion.

The Concentrated Employment Program in Eagle Pass, on the other hand, is generally conceded to include a number of dual address commuters in its training program; apparently no effort had been made by mid-1969 by those managing the CEP program in Eagle Pass to conduct the time-consuming residence interviews needed to sort out alien commuters.

A distinction should be made here between training programs (which carry stipends) and referral programs. There are provisions in Federal regulations calling for the exclusion of non-residents in training programs but there are none, to my knowledge, in referral programs which simply involve the expenditure of staff time, rather than cash for allowances while in training.

As a matter of fact, given the right set of circumstances, such as a farm labor shortage, the Employment Service will actively recruit non-resident Green Carders to meet the growers' needs. Radio announcements will be made on stations broadcasting in Spanish to Mexicali and Tijuana audiences, and farm placement interviewers when talking with potential farm workers in Employment Service offices do not ask unnecessary questions about residence or immigration status. (There is a Department of Labor requirement to avoid the referral of illegal entrants to employment, but this is not always enforced.)

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D. Government as an Employer - Direct and Indirect

A significant number of commuters are in a splendid situation--they are holding jobs in federally-funded programs and living in Mexico.

As far as direct Federal employment is concerned, this is almost exclusively restricted to American citizens; there is, however, no barrier to a Mexican residence for an American citizen working for the American Government. No civilian agency that we contacted had any rules on the subject, or kept any records on it.[14] Only the military demands that its people reside in this country, and it makes an exception for a serviceman whose wife is not an American citizen.[15]

But much of the Federal money coming to the border is through grants and contracts, not through direct hires, and there are absolutely no rules about hiring non-residents in this connection.

We know from our interviews and other sources that commuters work in San Diego Defense plants, in El Paso's clothing industry,[16] which produces quantities of uniforms for the Defense Department, in the projects funded by the International Water and Boundary Commission,[17] and for border projects funded by the Economic Development Administration. We have even encountered some statements that some border school systems, which receive Federal funds, have an occasional commuter employee (though this is an exception).[18]

E. Educational Programs

If the real home address of an adult is hard to pin down along the border, it is twice as difficult to determine the real home of a school-age child. As a result probably the greatest illicit utilization of public facilities along the border comes in the school system.

We should note, however, that not all trans-border school children are smuggling their education. There are a number of border crossers who are paying tuition in public and church schools, mostly the latter. We wrote to a number of public school systems along the border and were told that there was at least some incidence of tuition-paying border crossers.

Thirteen of the border school systems, including at least one from each of the four border States, reported to us that they had 570 known residents of Mexico enrolled in their schools, and that they were charging their parents tuition ranging from a low of $135 in El Paso to a high of $750 in Chula Vista, California. These 13 systems had a total enrollment of more than 120,000 students, meaning that the tuition paying visitors from Mexico accounted for less than one half of one percent of the student body.

The reply from Brownsville was intriguing. It said that it had no provision for accepting tuition or out-of-town-students, that it knew of none, but that 5% of the student body are regarded as under guardianship (which others told us meant students from Mexico living with friends or relatives in Brownsville).

Of particular interest is the situation of the Columbus school, Deming (N.M.) School District, where the school suspects that 80 of the school's 180 students really live in Mexico (though all are U.S. citizens and all supply U.S. addresses). In the past, when the school authorities suspected that they had a resident of Mexico in the school they used to confront the child on the matter -- which always resulted in the child moving across the border; such confrontations became self-defeating, and were stopped. There is particularly strong interest in the Columbus school because in recent years the Palamos (Mexico) school across the border has been inactive.[19]

The 570 students reported in the survey -- and we did not receive responses from such major systems as those in Laredo and San Diego -- are just the tip of the iceberg. The survey just covered tuition-paying students in public school systems; utilization of non-public schools by Mexican students is also extensive, as this survey by Consul General William Hughes of Juarez indicates:

TABLE XXXIX

Mexican Residents Attending El Paso Schools

Durham College	6
International Business College	25
Lydia Patterson Institute	728
Radford School for Girls	21
El Paso Independent School District	135
Catholic Office of Education	2,518
TOTAL	3,433

Source: Letter from U.S. Consul General Hughes, June 16, 1969.

Consul General Hughes' statistics must be viewed as conservative, because they are drawn from records generated by American citizens registering at his office, and such registration is optional.

In addition to the students who pay tuition, there are some who would like to pay tuition but are not accepted by the school system. The principal of the Gadsden (Arizona) Elementary School, a six-room, eight-grade institution, the closest American school to San Luis, Sonora, for instance, told me that he accepted only ten tuition students a year, although there were many others who would like to attend at $500 a year -- even though this is, physically at least, not the most impressive outpost of American education.

Many Mexican residents attending U.S. border schools, are not doing so openly; they either cross the border daily, or they live with friends or relatives during the week, returning home on weekends. As with the case of the illegal workers, good statistics are simply not available.

One source in San Diego said that border patrolmen there had estimated that 1000 youngsters cross the border to attend U.S. schools (supplying false addresses). Another source, in Laredo, spoke of the time that the border had been closed for a number of hours, following the assassination of President Kennedy, which took place during school hours. He said that mobs of people piled up at the

bridge, including hundreds and hundreds of school age children not in uniform, i.e., students of the public school system.

The general impression along the border is that the Mexican students attending U.S. schools, particularly those paying tuition, includes the choldren of the Mexican Establishment. The Mayor of Mexicali, for instance, is a graduate of Calexico High School.

Many of the children are sons and daughters of Green Card commuters; in the 400 families surveyed, we found a total of 664 school age children (6 to 16) with 47 of them attending American schools.

F. Postal Services

One of the ways that a Green Card commuter secures Federal services and money is through an American address, and one of the best addresses (in terms of convenience) is a box in an American Post Office.

This offers several advantages:

1. It provides an American address for organizations which do not look behind such addresses. (It would be sufficient for unemployment insurance purposes, but not for a manpower training program which insists on residence interviews.)

2. It provides rapid and safe mail service. (The Mexican postal service is no match for the American one.)

3. It is inexpensive, $4.80 a year in Calexico, for instance, and this cost can be shared with other families using the box.

This is generally known to commuters, and others along the border (even the American consulates get their mail in post office boxes in towns across the border) and as a result, literally thousands of boxes are rented to commuters.

There are more boxes in the little San Ysidro Post Office than in the big one in downtown San Diego, for that reason. The post office in San Luis, Arizona, a town with no more than a couple of dozen resident families, has 1020 boxes, all rented, and virtually all rented to Mexican families.

The Postmaster of Calexico has 1451 boxes, including 176 added recently, and he could rent 500 more, he told me; 80% of his boxes are rented by Mexican residents. In Laredo

there is a list of 2000 people waiting to get one of the 1000 boxes now in use; here there is a policy of giving preference to American residents.

The role that these boxes pay in tax collections will be discussed in another section of this chapter.

G. The Draft

Most male border crossers have not registered for the draft, our survey shows, and a much smaller proportion have actually served in the Armed Forces. Dealing only with Green Card commuters and their Green Card male relatives, between the ages 18 and 44, we found that 45.3% had draft cards, and only 16.5% had served in the American Armed Forces. (This age group has a legal obligation to register with the draft.)

The Selective Service system estimates that nationally, over 99% of men in the 18-44 age group have draft cards, and the Veterans Administration calculates that 60% of men in the age bracket 30-34 have served in the Armed Forces, 75% in the 35-39 bracket and 80% in the ages 40-44.

It is now clear that commuters, whether they are American citizens or Green Card holders, must register for the draft. This was spelled out in a letter from the Selective Service System, to INS.[20]

The previous literature, however, was less than clear on the subject, with documents published by both congressional committees and the Civil Rights Commission declaring firmly that Green Card commuters are not subject to be drafted.[21]

Given this high level confusion, it is no wonder that some border crossers misunderstood their obligations.

A border crosser, even registered, is less likely to be drafted than other registrants, because of an anomoly in the administration of the law.

In the fifty States, the mental test administered by the Army is given in English. In Puerto Rico, the registrant is given the test in either Spanish or English -- the language in which he is most proficient.

All of this would suggest that many of the commuters, whose command of English reflects their educational opportunities, would be sent to examination centers, and would fail the examination -- and hence become IV-F. This does happen, but this is not the usual course of affairs.

Normally, border area draft boards, when faced with a registrant with inadequate English, classify him I-Y, which can be roughly translated as probably being eligible for the draft in a big war, but not now. The decision to classify an individual in this category is usually made, in fact, by a clerk in the office.[22]

Classifications in the I-Y are supposed to be reviewed every six months, and sometimes the local boards do call in those with inadequate English to see if it has improved.

The general impression I received along the border was that if someone with inadequate English really did want to get

into the Service, he probably could do so, test or no test, and many have taken that route.

Although there are many other reasons (physical, mental or moral) for categorizing someone in I-Y, we found it interesting that except in California a higher percentage of registrants in border counties were in this category than the law of averages would suggest.

TABLE XL

DRAFT REGISTRANTS CLASSIFIED I-Y

Jurisdiction	Percentage of Living Registrants in I-Y
State of Texas	12
San Benito Board	14
McAllen "	15
Laredo "	19
Uvalde "	18
Del Rio "	17
Sonora "	14
Alpine "	12
Van Horn "	18
El Paso "	14
State of Arizona	12
Yuma Board	13
Nogales "	14
Douglas "	9
State of California	7
Imperial County Board	7
San Diego " "	7
National Average	8

Source: Correspondence and conversations with Selective Service System officials in Washington D.C., Texas, Arizona and California.

Mexican residents -- including Green Card holders -- are also subject to the Mexican draft, which routinely involves drilling every Sunday for a year. We found that 94.4 percent of the male Green Card holders in the 18-44 age group had participated in this operation.

The conclusion would seem to be that Green Card commuters are not participating in the armed services to the same extent as residents of this country; this conclusion should be viewed narrowly, and not be regarded as applying to the Mexican American populace more generally, a group which has a remarkable record of service to the Nation in times of war.

H. Federal Taxes

Most Green Card commuters, as previously mentioned, have large families and small incomes. The averages we found were $3,902 annual family income and 5.5 members to each commuter's family. Given these figures, and using the standard deductions, the average commuter would have an obligation to pay a minimal Federal income tax.

There are commuters who do have Federal income tax liability, however, and the Internal Revenue Service has had some difficulties collecting from them. IRS regards the commuters as non-resident aliens. Our own survey showed that 90% of the Green Carders filed Federal income tax returns in 1969; since all the commuters made more than $600 all should have filed returns.

Some of the IRS difficulties include:

1. Non-filing of returns, as noted above. Since domestic workers and farm workers do not have taxes deducted from their pay, and since 47% of the Green Carders fall into these two categories a substantial percentage of the commuters do not have a possible tax rebate as an incentive to file a return.

2. No power to cross the border to check on deductions. Since this is known to everyone along the border, there have been instances in which the number of dependents has grown in direct proportion to the amount of taxable income. Knowing the ease with which legal looking documents can be secured in Mexico, attesting to just about anything, the IRS field people prefer statements from priests as to the size of the family if this is an issue.

3. Differential ease of access to the taxpayers -- a refund can be mailed to the commuter's post office box, but if the IRS wants to get to the commuter, it

neither can go to Mexico to look for him nor have INS stop him at the border.

4. Non-utilization by INS of social security numbers. All major Government agencies, even the defense Department for its military personnel, use social security numbers to identify people. INS uses its A numbers, which relate to nothing else. Given the difference between Anglo and Spanish nomenclature practices, it makes it doubly difficult for another agency to exchange information with INS on enforcement matters.

5. Use of false tax returns in the immigration process. A commuter, in order to secure a Green Card for a relative, will show a tax return to the U.S. Consul, to indicate that he is making enough money to avoid the public charge problem. IRS has found, however, that it is very difficult to collect the taxes which the commuter claims that he either has paid or owes. Two techniques are used, either the commuter produces a forged return with a forged IRS stamp on it, or he supplies a real amended return, but then he does not pay the additional tax. There are some efforts being made on the spot to bridge this gap between the State and Treasury Departments.

Cited above are some of the special difficulties of collecting taxes from Green Card commuters; all of the usual problems encountered by IRS elsewhere in the Nation undoubtedly are present with this group as well.

The Treasure Department, however, has made life more difficult for itself, and unnecessarily so. The problem of collecting income taxes from people who work here, but do not live here permanently is a broad one, and the IRS has taken steps to solve it. But each of the devices it uses in the broader area is <u>not</u> used with the commuters.

For instance there is the "sailing permit" which must be obtained by a visiting worker before he can leave the country. The permit is issued by the IRS after it is

satisfied that the worker has met his income tax obligations. This device is designed for people who work here for a matter of weeks or months, and then leave the Nation; in its present form it is not designed to cope with the commuters, and commuters are expressly excluded from its provisions?[23]

There could be, one would suppose, an annual version of such a permit which a Green Card holder would have to secure in order to get his Green Card renewed -- if it were a renewable document rather than a permanent one, as it now is.

Further, a literal reading of the IRS rules on sailing permits would suggest that domestics and farm workers should secure that document; to quote from the IRS publication:

> "If you are included in one of the following categories you are not required to obtain a 'sailing permit' upon departure from the United States...
> 5. A resident of Canada or Mexico who commutes between such country and the United States at frequent intervals for the purpose of employment and whose wages are subject to the withholding of tax." (Our emphasis)

Farm workers' and domestics' wages are not subject to withholding.

Similarly, the general rule that 30% of a non-resident alien's wages must be witheld for taxes, is not applied to the case of commuters from Mexico and Canada.[24]

We have some suggestions later as to how the Federal income tax collection operations can be changed to secure greater tax income, and to fit a suggested over-all border crossing policy.

Commuters do pay some American taxes, of course; retail sales taxes in the United States are almost impossible to avoid, and the commuters spend much of the income for items bearing this tax. Commuters also contribute to the support of some Texas cities and counties by paying toll as they cross the bridges, a subject which is explored more deeply in Chapter VIII.

On the other hand, commuters do not pay any U.S. property taxes, which furnish much of the revenues of the border towns and counties, and they also can escape Federal taxes on the American liquor and cigarettes that they purchase on this side of the border for use on the other side.

Notes on Chapter VI

1. U.S. Department of Health, Education and Welfare, Social Security Administration, Office of Research and Statistics, April 1969, RS:S-2.18.

2. Letters from the Administrator, Texas Employment Commission, February, 1969 and the Director of the California Department of Employment, March 1969 to the author.

3. Letter from the Administrator of the Employment Security Commission of Arizona, February 1969 to the author.

4. Information gained through interviews with David Laurel and other Texas Employment Commission representatives in El Paso, January 16, 1969.

5. Arizona Daily Star, Tucson, Arizona, July 31, 1969.

6. During World War II food rationing stamps were issued to Tijuana families to allow them to continue buying from San Diego merchants. John A. Price, "A History of Tijuana: Border Town and Port-of-Trade," (San Diego, 1968), p. 10.

7. San Antonio Express, June 25, 1969.

8. See page 67 of this text.

9. See affidavits filed by Rose Valanzuela, 656 McKinley Street and Maria Vasquez, 502 Lincoln Street, September, 1968; in the files of the California Rural Legal Assistance office, El Centro, California.

10. Letter from the Assistant Director, Vocational Rehabilitation Division, Texas Education Agency, May 1969 to the author.

11. Letter from the Director of Rehabilitation, Department of Rehabilitation, Sacramento, California, June 1969 to the author.

12. Department of Labor regulations call for the selection of "permanent residents of the United States" in its MDTA training programs (29 CFR 20.12) and defines permanent residents as those "whose actual dwelling places is in the United States" (29 CFR 20.1 (l)). Section 125 (b) of the Economic Opportunity Amendments (42 USC 2742) similarly requires that those participating in poverty programs be permanent residents of the United States, and the Labor Department has defined the term, under this act, for Neighborhood Youth Corps purposes, as it does for MDTA purposes.

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13. Such leakages normally reflect either disagreement with Washington's policies or administrative mismanagement, but we encountered one story about a 67 year-old neighborhood aid in a poverty program which suggests another factor. The gentleman had arranged for the admission of five young ladies, all Mexican residents, to an OEO-funded training program in return for which each of them spent one night a week with him. He was fired and the ladies dropped from the training program.

14. Letters from the Civil Service Commission, from the Department of the Interior and the Department of Defense, to the author.

15. Letter from the Department of Defense to the author.

16. Brian Rungeling, in his Ph.D. thesis, "Impact of the Mexican Alien Commuter on the Apparel Industry of El Paso, Texas," (Lexington, Kentucky, 1969), estimates that 23 to 40 percent of the garment workers in El Paso are commuters.

17. Interview with Commissioner Joseph F. Friedkin, El Paso, June 2, 1969.

18. Testimony by Charles W. Kilgore, member of the Imperial County Board of Supervisors, p. 241, unpublished transcript of hearings on Green Card commuters held by Congressman Tunney in California.

19. Letter from Emmett Shockley, Superintendent, Deming Public Schools, Deming, New Mexico, to the author, July 1969.

20. Select Commission, Hearings--Part I--El Paso,op. cit., letter from Daniel Omer, General Counsel, Selective Service, to Charles Gordon,General Counsel,INS, April 10, 1967, p. 149.

21. U.S. Commission on Civil Rights, "The Commuter on the United States - Mexico Border -- Staff Report," (Washington,D.C., 1968), p. 11; also, House Judiciary Committee Report of 1963, op. cit., p. 171.

22. Interviews with draft board officials in Texas and Arizona.

23. Treasury Department, Internal Revenue Service, "Tax Information for Visitors to the United States," Publication 513 (10-68) (Washington, D.C., 1968).

24. "U.S. Tax Guide for Aliens," Publication 519 (10-68) (Washington, D.C., 1968), 9. 29.

VII. Local Variations in Commutation Practices

As it must be abundantly clear by now, the border labor markets vary considerably from city to city. Perhaps it would be useful to review some of these differences, starting at Brownsville and moving west.

There are essentially three kinds of city location arrangements at the border; in the most common, both the American and the Mexican cities are right on the river, as is the case at Brownsville: another has the American city back some distance from the border, such as McAllen, while the Mexican city is at the border; in the third, such as Rio Grande City, the American city is on the border, but the Mexican one is not.

When the cities are next to each other there tends to be more commutation than when they are not; for instance, one can walk (which is important with poverty-stricken workers) from the low-rent area in Matamoros to job opportunities in Brownsville. Brownsville has a farm labor shape-up area, although it is not as busy as the comparable institution at McAllen. Most of the commuters at Brownsville, however, are not farm workers.

The Brownsville crossing point is one of the busiest, having 3,777 crossers, including 2,306 aliens and 1,471 citizens (using here, as we will throughout the chapter the

August 1969 alien count and the 1966 count for citizens). The ratio of citizen to alien commuters was the second high on the border, 42 percent.

The next crossing point, Progresso, had only 82 alien crossers in 1969, and is not located near a major American population center.

Further up the Valley is Hidalgo, the little town at the border some ten miles south of McAllen. The distance between the border and McAllen, a city comparable to Brownsville, probably accounts for the smaller number of commuters. The total number crossing there were 1,063 aliens and 1,398 citizens, this being the only crossing point where the citizens appear to be in the majority. About half of the alien commuters here are engaged in farm work, and the shape-up point, which in fact is the only really active one in the county, is at the end of the bridge. (This causes resident U.S. farm workers to travel almost to Mexico before they can seek farm work in the morning.)

The three crossing points mentioned to date are open 24 hours a day.

Next comes the little ferry at Los Ebanos, which is literally hauled across the river by five sturdy Mexican Nationals, and is owned by a physician in Monterrey. This

crossing point is open only eight hours a day, which effectively eliminates its use by commuters. Los Ebanos is a little town in Texas--the nearest Mexican community is several miles from the river over a bumpy dirt road.

The bridge at Rio Grande City was down during the 1967 survey, but is now open for 11 hours a day, and goes from a point near the center of town to a point a couple of miles from the Mexican twin city. There was no commutation reported here either in 1967 or currently.

The other crossing point in Starr County is at Roma, which is right on the river, and a stone's throw from Ciudad Miguel Aleman, the Mexican city. There were 165 alien communter reported here, mostly farm workers.

Falcon Heights, the crossing point which is atop the Falcon Dam, does not have an appreciable commuter work force, though it does have the attraction of being free.

The Laredo crossing is a very busy one, being the bridge between downtown Laredo and downtown Nuevo Laredo; the commuters are numerous, with 3,312 aliens and 1,134 citizens being counted. This is the second busiest crossing point in Texas (second only to El Paso) and perhaps the city where a commuter work force is least needed. Only 312 of the commuters work on farms, and a great many work in the retail stores of the city. Laredo's extreme poverty has already been noted.

The next two cities, Eagle Pass and Del Rio, offer an interesting contrast. Del Rio, with a 1960 population of 18,617, received only a sixth as many commuters as did Eagle Pass, with a population of 12,094. Del Rio received 318 citizens and 132 alien commuters, while Eagle Pass accepted 1,106 citizens and 1,968 aliens. Why the difference?

In the first place, the city opposite Eagle Pass, Piedras Negras, is considerably larger (48,408) than Villa Acuna, which is the one opposite Del Rio (22,317); secondly, Eagle Pass is on a main highway into the interior of Mexico, while Villa Acuna, until recently, was so isolated from the Mexican interior that one routinely drove to Mexico City by crossing into the United States, driving down the Texas side of the border to Eagle Pass, and then crossing into Mexico again. Thirdly, the agriculture around Del Rio is pastoral, and requires so few farm hands that only two were recorded as crossing in 1967, while Eagle Pass is in the Winter Garden area, and employed 682 alien commuter farm workers in 1967. Finally, Eagle Pass is right on the border, while Del Rio is back from the river by about four miles.

There are just handfuls of commuters at Presidio and Fort Hancock, and our interviewers did not visit these towns. (We did talk to a VISTA Volunteer in Presidio, and in the process of trying to reach him discovered that this out-of-the-way place has no local government, no local telephone

office and even the U.S. post office there gets along without a listed telephone.) Presidio, as we noted earlier, is an exit station for illegal entrants.

El Paso is the biggest single crossing point on the border (and, for the purposes of this study we have combined it with the Fabens crossing point, which had 326 alien commuters in 1969, largely farm workers). El Paso has three crossing points, two in the downtown area (both one-way), and the new bridge near the Chamizal tract. The downtown bridges are primarily used by people walking or taking the international trolley, while most of the cars cross the new bridge in the Chamizal area.

Large numbers of commuters cross all the bridges, with the total being 13,140 aliens and 1,676 citizens for the statistics we are using in this section; a more realistic total figure would be in the 18,000 - 20,000 area. Like Brownsville and Matamoras, but more so, downtown El Paso and Juarez are right next to one another, and are the biggest two cities on the border with this arrangement. No more than 10 percent of the commuters at El Paso are farm workers, and the rest are scattered through a wide variety of occupations.

As previously noted, the two crossing points in New Mexico, Antelope Wells and Columbus, have little commuter traffic, and are of little interest to us.

Further west, in Douglas, we have a mining town where almost half of the alien commuters work on farms; a total

of 169 citizens and 496 aliens cross into Arizona at this point.

Nogales, on the other hand, is the city through which most Mexican agricultural products flow, and has few farm hands among its commuters. In keeping with the pattern in other western crossing points, the number of citizen commuters is relatively small, 268, while there were 1,371 alien commuters.

We did not survey the three minor Arizona crossing points, Naco, Sasabe, and Lukeville, which had 112, 7 and 1 alien commuters respectively at the last count.

San Luis, Sonora, is a good 25 miles south of Yuma, so that city is really not affected by the border, but most of the workers in the surrounding irrigated farms, do commute from Mexico. Here again the alien-citizen ratio is high, with the totals being 3,616 aliens and 624 citizens.

The Andrade crossing point is in California, a few miles west of Yuma. It used to be open only 8 hours which probably will create a commuter pattern where none previously existed. This is little more than a spot in the desert which is marked by the immigration station and a couple of stores on both sides. But Yuma is not far away, nor is a fair-sized Mexican population. Dr. Ben Yellen, the Brawley (California) physician and persistent critic of Imperial County farm interests, waged a futile one-man campaign against opening this crossing

point to commuters. (The previous hours, nine to five, did not allow commuting.)

We have mentioned the way the border passes through the middle of the Calexico-Mexicali business district, and the heavy concentration of farm workers among the commuters. Here the citizen-alien ratio was 2,341 to 8,788. More than anywhere else on the border one runs into accounts of employers, particularly farm employers, actively discriminating against American residents.

The next crossing is Tecate, the prosperous Baja California town adjacent to Tecate, California, which prides itself on its non-dependence on the tourist dollar. Only 66 alien commuters were recorded, and we did not visit the place.

Finally, there is Tijuana-San Diego, the second largest of the crossing points, and the one where there is the most prosperity among the commuters, the highest union membership, and the least interest in moving to the United States (if one had to choose such a move rather than losing one's American job).

The total commutation into San Diego is 13,893 including 3,052 citizens and 10,841 aliens.

Some of the responses to our alien commuters' questionnaire indicated a fairly even geographic distribution of some characteristics, such as family size, and others which are reported elsewhere in this document.

There were, however, a variety of other geographic variables which are of interest.

The extent of ties with America is greater along the Texas border than it is in the West. For instance, 79.0 percent of the alien commuters in Eagle Pass and Del Rio said that they had an American address, and 59.3 percent of those in Laredo said the same thing, while similar responses in Calexico and San Diego were 15.4 percent and 11.9 percent, respectively.

"Do you have any members of your family living in the United States?" we asked, and everyone in Hidalgo, Laredo and Eagle Pass-Del Rio said yes, whereas only a third of the people in San Luis and half in Calexico responded affirmatively. (There also was a high incidence of such relatives in San Diego, nearly 80 percent.)

Previous stays in the United States, prior to securing the Green Card, were the rule along the Texas border, with 94 percent or better reporting such visits in Brownsville, Hidalgo, Laredo and Eagle Pass-Del Rio, with far lower figures being reported in the West, (San Luis, 30.6 percent, Calexico, 55.7 and San Diego, 27.4 percent). As one might expect in areas of high farm worker employment, many of those who had visited the States had done so as braceros.

There apparently is a go-to-California pilgrimage in Mexico, as well as in the United States. Two of our questions showed this conclusively.

We asked where the commuters were born, and found that 121 of the 400 had been born in the interior of Mexico. Of these 121, fully 114 lived at the three most westerly crossing points. In Tijuana we had the highest incidence of interior births, 76.7 percent.

Another bit of evidence comes from the replies to the question, "where was the consulate from which you obtained your visa?" East of San Luis most of the commuters had secured their visa from the city where they are now living; for instance, 97.5 percent of those living in Juarez got their visa there.

But the commuters from San Luis had received their visas in six consulates, those from Mexicali from eight locations, and those commuting from Tijuana, from ten. All of the visas obtained in Mexico City (15) and all of them from Guadalajara (14) went to commuters now living in Baja California.

Wages for commuters are considerably better in the West, with 64.4 percent of our sample in San Diego reporting weekly incomes of $80 or better, while only 5 percent in Brownsville, 10 percent in Hidalgo, and 3.7 percent in Laredo reported incomes of this level.

Strangely perhaps, the largely agricultural commuters in San Luis and Calexico, although not as prosperous as those who work in San Diego, are considerably better off

than the largely non-agricultural workers of El Paso. We found that 14.1 percent of El Paso's commuters made more than $80 a week, while these figures in San Luis were 27.8 percent and 37.9 percent in Calexico.

Similarly, seven of the 16 commuter-owned color TV sets we found were in Tijuana, and that city had the largest incidence of multiple car ownership, with 24 of the 73 respondents there owning two or three cars.

All of this suggests that adverse effects on the Green Card commuter is a very uneven one, with the impact being the greatest along the Texas border; despite this differential impact, however, any solutions -- the subject of the next chapter -- will have to be worked out largely in Gulf to Pacific terms.

VIII. Some Alternative Solutions to the Commuter Problem.

As we have shown in Chapter V, the trans-border work force creates serious economic problems for American residents, particularly poor American residents. It is primarily through this work force that Mexican poverty has spread into the border regions of the United States.

The problem is not a simple one; it crosses many jurisdictional barriers within the United States and Mexico, as well as the international boundary.

As the result of the presence of the commuters, we have concluded : American resident workers lose jobs, they work at lower wages than they would otherwise; they are less likely to be represented by unions, and probably more likely to be forced into the migrant stream. Further, the way Federal programs operate along the border too often tends to leak benefits to border crossers while denying resident workers the benefits which would accompany the vigorous enforcement of labor standards laws.

It is our conclusion, further, that with the exception of San Diego, the border is essentially depressed, and that it is particularly unfortunate that an artificial flooding of the labor markets should take place in such an area. We feel, finally, that the high rates of unemployment and low wages which characterize the border labor markets are partially the results of the Government's policies, and these policies, therefore, should be changed.

Some of the proposed solutions to the problems probably would cause more trouble than a continuation of the status quo: for instance, an immediate forced migration of all the alien commuters and their families (and with the surveyed Green Card commuters having families averaging 5.5 members), this would suggest an immediate influx of 225,000 people. This is based on the INS alien commuter count of August 1969 (47,876) and our survey showing that 87.4% of the commuters would move rather than lose their American job. Virtually no one is suggesting such a course of action, but this is a straw man which opponents of a tighter border erect on every possible occasion.

We will discuss below each of a wide variety of possible partial solutions to the problem, and will conclude by describing an optimal package of proposals.

A. Do Nothing

This is the most likely course of action to be taken by the Government in the near future, and perhaps the most likely one to be taken for years to come.

The attractions of doing nothing are great, to the Mexican Government (and therefore our State Department), to the Border Establishment and to the INS.

An argument used to support non-action is that given the current requirements of the immigration law (particularly labor certification and the 120,000 Western Hemisphere limitation) the problem will solve itself over time because the supply of new commuters has been cut sharply. We have shown in Chapter III how the labor certification requirement has been avoided on the border. The 120,000 limit, however, will have something of a dampening effect on the creation of new commuters, but no one yet knows how significant this will be.

Dr. Rungeling, although not an advocate of non-action, predicts that current trends and immigration restrictions will end the commutation program in twenty to thirty years.[1]

One also hears from State Department officials and people on Capitol Hill[2] that consular officials are not issuing visas to new commuters. In a narrow sense I am sure that they are right; that if a would-be immigrant is frank enough to tell the American Consulate that he plans to become a commuter,

he probably would not get his visa. But I suspect that the question is not asked often, and if it is, the answer is not always a completely honest one.[7]

What these arguments fail to consider is that there are two sources of new commuters -- Mexico and the United States. Some commuters are created when a Mexican National secures a Green Card, and then starts to commute, without ever living in the United States. (Our survey found that a substantial number of legal border crossers had never lived in America.) This is the pattern usually discussed.

Another pattern is that of the Mexican National who gets his card, and then tries to make it in the American economy; after a while a number of them, particularly if their families are growing, come to the conclusion that they cannot live in the American economy, although they must continue to work in it. So -- without having planned it that way -- they become commuters. (Of the aliens surveyed 24 percent had lived in the United States for more than two years, another 20 percent had lived here for between six months and two years, and 11 percent had tried it for under six months. The citizens experience had been similar.)

There were 701,979 Green Card holders (permanent resident aliens of Mexican nationality) in January 1969, a figure which should include most of the forty-seven thousand counted

alien commuters. All of them are theoretically capable of becoming Green Card commuters, and undoubtedly a number of them will do just that particularly if unemployment in the U.S. rises.

One of the most widely stressed arguments heard along the border for preserving the status quo is that the American border communities need the workers but cannot afford to supply the houses and public services needed by the workers' families. Logically, this train of thought leads to two corollaries:

1. The Mexican town across the border can get along without the commuter's services, and the substantial part of his income he spends in the United States, and still provide him with the housing and the services he needs.
2. American border towns, unlike other American communities, have a unique right to a subsidized labor force, one that contributes labor without the need for schools and houses, which a labor force normally needs.

Without going into either of the points noted above, Robert Nathan Associates, a Washington-based consulting and research firm with impeccable credentials, makes a strong plea for the preservation of the status quo in its report on the border which has been cited so often before. The report says that neither cutting off new Green Card commuters,

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nor making them move to the United States would help the unemployed Mexican American. The following are excerpts from the Report,

> "In spite of the size of the immigrant labor force, we do not believe that it is a basic cause of unemployment in the United States. That is, stopping the commuters or immigration would do little to diminish unemployment among Mexican Americans. Industry and trade in the Southwest could not possibly continue its present labor-intensive economy and pay wages comparable to those in more developed areas. Instead, the border economy would have to organize itself on the basis of mechanization and labor scarcity.
>
> "The revision of the bracero program, which in effect cut off this supply of low wage labor for agriculture, did very little to reduce unemployment among Mexican Americans. Farmers shifted to mechanized farming, including shifting to different crops; or they shifted operations south of the border; or, if they were located near the border, they employed more Green Carders. The jobs they now provide are much more dignified and better paid, if fewer, than those that existed before. But the unemployment rate among Mexican Americans in the border counties did not decline.
>
> "One suggestion to increase employment among Mexican Americans is to require the Green Card holder to be domiciled on the U.S. side of the boundary. The argument is, that if he had to maintain a household on the U.S. side, or even had to separate himself from family and sleep on the northern side, he would no longer accept such low wages as those now prevailing.
>
> "It is difficult to see how these arrangements would help the Mexican American. If the Green Card holder comes to the United States, the local citizen must still compete with him. The Green Carder will underbid the citizen because he has to retain the job in order to stay here." [3]

The Nathan Report completely missed the point of the

bracero termination, which is that ending an artificially flooded labor market produces many benefits, such as increased wages, for those who work in the new tighter labor market.

As Secretary Wirtz showed in "Year of Transition" there was an increase in domestic employment in seasonal farm work as a result of the bracero termination.[4] "At the peak of the season (in August 1965) there were approximately 86,200 more U.S. workers in seasonal jobs in the fields and groves in 1965 than in 1964...In August 1965, domestic seasonal farm employment in California was up by 21,000 (or 17 percent) over August 1964; up 20,000 (40 percent) in Michigan; up 10,000 (7 percent) in Texas."

However, it should be noted that these figures count Green Card commuters as domestic workers; this does not blunt the general argument that the end of the bracero program did help the resident Mexican American working poor; this was perhaps less true along the border, however, than further inland, because of the presence of the commuters.

The Nathan Report's thought that the border economy would have to organize itself on the basis of mechanization and labor scarcity if the commuters were stopped at the border makes some sense if applied to the Yuma and San Luis crossing points, but none whatsoever from Laredo to the Gulf of Mexico. Even if one accepts the unemployment figures of the TEC, it is clear that there still would be extensive unemployment or under-

employment in Laredo and the Lower Rio Grande counties even if all Green Card commutation were eliminated tomorrow morning. Of course, not every job in Laredo, for instance, now held by a commuter could be filled by an unemployed American resident, but earlier Labor Department studies suggest that most of them could be filled in this manner.

The Nathan Report's comments on the non-utility of making the commuters move to the U.S. side of the border makes sense, particularly if the movement across the border were to be made in a short period of time. We will discuss this more thoroughly later.

B. Cut Off New Green Cards

A most attractive alternative solution would be to simply stop creating new commuters. This would, in time, eliminate the adverse effects of the commuters. It would not hurt anyone who currently is commuting.

It would not create any immediate problems either for the border employers, or Mexican authorities, though over time it would end a program which is currently important to them.

Compared to some other suggestions, it would present minimal difficulties to INS, and would not be a workload problem at all to the Department of Labor.

Further, no one would have to move to the United States.

Although such a step would not meet all the demands of organized labor and interested Mexican American groups, it would meet these demands at least part way.

It is surprising that nothing has been done along these lines.

The State Department apparently did not object to such a prospect during the Johnson years. The Assistant Secretary of State for Latin America, Covey Oliver, told Senator Kennedy's hearings in 1967 that there would be no difficulty with the Mexican Government over the non-creation of new commuters.[5]

Scammon and Ruttenberg advocated this step as a part of their package of proposals to the President. And several border employers suggested at the hearings of the Select Commission on Western Hemisphere Immigration that a ban on new commuters would be perfectly acceptable to them (but not a restriction on the commutation rights of current commuters).[6]

As noted before, Scammon and Ruttenberg disagreed on whether or not the step could be taken without legislative action; Scammon felt the legislation was needed, Ruttenberg did not. (The author agrees with Ruttenberg.)

The mechanics of such an operation would be relatively simple, and there would be a built-in irony, for the hated grommet would now be a very welcome symbol indeed, because INS would either honor only grommeted cards -- or some substitute for them -- as border crossing documents for commuters. The Service would have to, in some way, make sure that only commuters who were active on a given date (as of a "date certain," to quote Scammon) would be allowed ton continue to commute. INS would have to adjust its procedures in such a way that newly admitted Green Card holders would not be allowed to commute, nor would resident aliens who were not commuting on a specific date.

It is hard to know how fast the commuter practice would wither away given such a decision. It would seem reasonable to suppose that the attrition rate would not be as great as the one reported by the INS District Director on the Detroit

border -- approximately 9 percent annually -- at the Detroit hearings of the Select Commission. American jobs are far more attractive to Mexicans than they are to Canadians.[7]

The Bureau of Labor Statistics estimates that two percent of the men in the labor force over 16 years of age withdraw each year. This concept covers living withdrawals and does not include deaths. The withdrawal rate for women in the same age group is four percent. Since our work force is roughly 3 to 1 male, it would suggest an annual withdrawal rate of 2.5 percent. Members of the commuting work force, however, have two special reasons for leaving that work force -- reasons which would not affect other American workers. Commuters could stop being commuters by either getting a good job in Mexico, or moving to the United States. On the other hand, there is the age structure of the commuter work force, which we have previously described as largely middle-aged. Currently, only about ten percent are more than 55. Hence, the immediate retirement rate would not be very impressive. But in the next ten years, 23 percent of the alien commuters will pass their 55th birthday, and the retirement and death rates will climb accordingly.

Bearing in mind all of these factors, it would be reasonable to estimate that barring new commuters the commuter attrition rate in the next few years would fall a little below the halfway mark between the nine percent rate on the northern border, and the 2.5 percent one might expect of the national force, say four to five percent a year.

C. An Adverse Effect Formula

The Kennedy bill, using the Labor Department's bracero program precedent, would establish a wage rate (or rates) which employers would have to pay commuters in order for the commuter to continue his commuting. The Labor Department set adverse effect wage rates throughout the sixties in agriculture, and only employers offering employment at these rates were allowed to use braceros. The adverse effect rates were revised annually, and other provisions were tightened, so that, by January 1, 1968, the last bracero had left the Nation.

The Kennedy bill would give the Labor Department the authority for setting the adverse effect wages for the commuters. The grant of authority is a broad one, and no guide lines are offered in the legislation.

The Kennedy bill alarms the Border Establishment, which fears the bracero precedent. Scammon, for this reason, advocates that the rates under such a program be set by a border labor board, which would consist of representatives of the Departments of Labor and other interested agencies.

No matter who sets the adverse wage rate, two things are clear:

1. There is great inherent flexibility in such a program, with it possible for such a rate to be set so low as to be virtually meaningless, or so high that it would cause mass, immediate migration.

2. Some commuters would find that the jobs they held did not pay high enough wages to meet the adverse effect rate. They would have to either give up their American job (and their Green Card) or move into the United States in order to keep the current job.

In addition to the variable of the wage rate (which could be, and probably should be set lower in Texas than in California, and perhaps lower in some occupations than others) there would be the potential variable of timing. Adverse effect rates, of differing levels, could be made effective at different times.

Obviously the impact of such legislation would depend wholly on the rates set and the vigor with which they are enforced. Our suggestion would be that an adverse effect formula would be helpful and should be used in connection with some other techniques -- and imposed rather slowly, as part of a larger formula.

The Kennedy bill (S.1694), alone, as it stands, would not cut off the influx of new commuters, nor would it create a new, non-equity work-permit which some people advocate. It also would tend to operate in a sweeping, impersonal manner, which might cause some needless hardships among certain kinds of commuters. Despite these comments, however, and if the choice is between it and no bill, we would advocate its passage.

D. What if They All Move?

Supporters of the border status quo are quick to point out that any measures which forced alien commuters to move to the United States would immediately create massive needs for housing, education and social services generally. And new legislation which called for immediate movements of large numbers of people would do exactly that. We do not advocate any such proposal, but it might be helpful to look at some elements of this imaginary situation.

Multiplying the total number of alien commuters (47,876) by the proportion of those who responded that they would move to the United States if they had to do so to keep their American job (87.4 percent) we get a theoretical total of 41,844 families, which will round off to 42,000 for these calculations. One would need U.S housing, then, for 42,000 families.

Housing is pretty tight along the border, and there is no reason to doubt this, if precious little statistics to support it. And this is particularly true, we are told, of low cost housing.[8]

The Executive Director of the Brownsville Housing Authority, for instance, told the Select Commission that there are 645 public housing units in Brownsville, and all of them have been occupied for the last five years, during which time the waiting list has run as high as 150.[9]

On the other hand, when the Federal Housing Administration did a housing survey in El Paso. in June 1965, it found that 7.7 percent of the dwelling units in the city were vacant (including 17 percent of the apartments).

This produced a total of 6,226 vacant dwelling units, plus another 762 under construction.[10] Obviously 7,000 dwelling units -- if priced right -- could house more than half of the Green Card holders commuting from Juarez, if they were priced appropriately, and most of them were too expensive. Since 1965, we gather, housing in El Paso has tightened considerably, partiallv as a result of more extensive activity at Fort Bliss.

This points up another factor, that the arrival of peace accompanied by a downturn in military activities in San Diego and El Paso would loosen the housing situation dramatically in those two cities.

A further complication is that language in appropriations bills bars non-citizens from living in traditionally-funded public housing units, but not in housing built under some of the new programs of the Department of Housing and Urban Development.[11]

Let's assume for the moment that all of the 42,000 moving families would be unable to find any existing housing, and that they would be barred from public housing projects.

Let us further assume that each family could afford a modest new house, at an average cost of $15,000. All of this is highly unlikely, but let us continue. This would create a mortgage demand (assuming a 10% down payment) of $567,000,000 for low

income families in a tight money market. This would be an impossible situation. A more likely result of such a mass migration would be the over-crowding of existing housing, and the creation of many new shack and tent communities.

Our survey showed that if a mass movement of commuters were decreed, the 347 of 400 families who would choose to move would bring along 664 school age children (those between 6 and 16). They would also bring along 335 children under 6, who would soon be in the schools.

A few children, 47 to be exact, are already in border schools. When this figure is subtracted from the 664, it would produce 617 or 1.7 new school age children per family. This multiplied by the 42,000 moving families produces 71,400 new students.

The latter figure can be multiplied by $480.00 a year, the per pupil cost of operating the school system of El Paso whose costs are about average for the border, and this produces an annual, border-wide dollar cost of $34,272,000.

Many of the new pupils would be difficult to absorb in the school system; in the first place they have not had much schooling. Further, with a handful of exceptions, this education has been in Mexico, and the children are without any formal instruction in English.

Such an onslaught on the border schools, already underfinanced, would create a difficult situation which could only partially be solved by additional Federal funds.

Our survey also indicates that a mass movement would also bring to this country about 8,820 people over the age of 55, (assuming that whole households would be allowed to immigrate) and this would suggest some additional assistance to the aging costs.

The arrival of 225,000 people along the border would also increase the overhead costs of the cities and counties, as the need for streets, lighting, sewage, and police would increase. However, it should be borne in mind that many border cities, do not spend much for these services anyway (witness the unpaved streets in Laredo) and the arrival of many more poor Mexicans probably would not make much difference.

Further, no one on the border will suggest that the commuters (or even the illegals) pose a problem to the police, and their 24-hour presence presumably would not cause more problems than their 8 to 10-hour presence does now.

To summarize, and dealing only with housing and education costs, the massive arrival of all the commuter families who would move, would lead to incredible disruptions in the field of housing, and additional education costs of $34,272,000 per year.

It should not be assumed, however, that the costs of the new arrivals would simply record a drain on public treasuries, city, county, state and national. Two thirds of the commuters are already paying rent in Mexico (and another 2 percent are saving in the U.S. as well), and this would be a plus ele-

rent payment is very low, with more than 95 per cent of the renters paying less than $40 a month, and 57 per cent less than $25 a month. The commuters would pay more American taxes if they lived here than they do now. The construction of the schools and houses, the hiring of additional school teachers and social workers, would (no matter how financed) spur the economy of the border towns, and thereby increase the tax base. Further, the family expenditures would now become mere heavily weighted on the U.S. side of the border, and would contribute to secondary employment in the border areas of the U.S.

The proposal that commutation be ended immediately is a very unattractive one, one which has very little support, and is rarely mentioned as a possibility except by those who wish to defend the status quo.

E. Creation of a New Card

One of the suggestions proposed by Scammon and Ruttenberg was that a new class of commuting workers be created, that a new card be issued as a work permit, with no immigration aspects at all. Essentially, the worker would be allowed to cross the border to take a job -- if he and the job met the standards -- but he could not use the card later to immigrate, nor, under any circumstances, could he be forced to move to this country. Scammon called it the "polka dot card."

People concerned with immigration problems refer to such a device as a "non-equity permit" because it would not give the worker, or a member of his family, a right to seek permanent admission to the Nation.

As we mentioned earlier, there are a handful of border crossers with H-2 visas (see pages 140-141) who are now carrying what is the equivalent of the "polka dot card." Rungeling suggests that the H-2 visas be used extensively, for this purpose.[12]

This approach is attractive to the Establishment only as an alternative to no commuter program at all, and it is attractive to those seeking change because one could regulate such a program far more tightly than one can regulate the lives of people who have secured the right to live in the United States permanently. Scammon and Ruttenberg, over time, want to

end the Green Card program, and force the current Green Card holders to do one of three things:

1. move to the United States,
2. stop commuting, or
3. commute with a polka dot card.

The Muskie bill (S.3545),which is built around the work permit principle,would allow the permit holder to continue to commute only so long as he continues to work for his present employer. This provision would give the commuter's employer great power over his worker- more than he has now- because the worker's right to cross the border for work would be subject to his employer's whim. This would tend to create an indentured servant class. That the employee might have a chance to secure a new card, by getting a new job, would be significant only to the most self-confident card holders.

The Muskie bill, however, does contain a very useful element. This is the provision allowing civil suits on behalf of U.S. resident workers, if they suffer from competition from border crossers.

Although the work permit approach has possibilities, is rapidly gaining adherents on Capitol Hill, and would be far better than no action at all, we do not advocate any step which could be used to perpetuate the artificial flooding of the border labor markets.

F. Assisted Migration

One result of any basic change which goes beyond ending the creation of new commuters, would be the encouragement of commuters to move to the United States. Since this would be done in the interest of the United States, the Government should help with the process.

There are parallels in the re-settlement of the Hungarian refugees and the Cuban Refugee program. In both cases public and private resources were used to ease the way for the new arrivals. Needless to say, there would not be the emotional overlay involved in the re-settlement of commuters, and private resources could not be expected to be a significant factor.

One element of such a program would be a duplication of those mentioned earlier. Efforts would be made to find houses and jobs for the former commuters, preferably away from the immediate border region. Counselling and referral services could be brought to bear; special language classes offered through the school systems, and the like. Further, a short-term cash relocation allowance would be very helpful.

In addition, adjustments should be made for those forced to move - by something like the Kennedy bill - within the immigration process itself. Additional manpower would have to be allocated to the consulates in Mexico (to process the visas), exceptions should be made in the 120,000 Western Hemisphere Immigration limitation, and perhaps the U.S. fees and charges

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which now run $35 to $45 per person, should be waived. We might consider a double standard in the public charge requirements; we should make it tougher for the individual, young, would-be immigrant, who will have a family later, and more relaxed for existing families when the breadwinner has to relocate in the U.S.

All of these adjustments should be made for those forced to move to the U.S. The Government should not demand that the alien commuter move, and then not permit his family to move. Our survey finding, that less than 8 percent of the visa applications filed for other members of the Green Carders' families had been approved, underlines this recommendation. (See page 126).

Bearing in mind the alien commuters' statements, that if they have to move, they would move right across the border (see page 127), it might be useful to assist residents of American border areas to move north.* Currently the Labor Department subsidizes some internal migrations. There has been one well-publicized example of this, the Ling-Temco-Vought project which moved workers out of the Valley to Dallas. This project, however, pulled out not the working poor, but some of the ablest citizens. The Mexican American community has a valid argument against such leadership drains. A better approach is to move a more accurate cross-section of the community, to another place where a viable Mexican American community already exists.

*Such population movements are needed at the eastern end of the border whether or not the commutation patterns are changed.

Another set of possibilities would revolve around the concept of early retirement for older commuters. The Government has set a couple of interesting precedents which might be used in this field. The Government, for instance, pays farmers not to use otherwise useful land, because it is in the interest of the society to limit crop production -- and thereby stablize prices. The Government also pays special allowances (though this is a relatively obscure program) to workers who lose their jobs because of cuts in tariffs which, in turn, benefit the society generally.

Our thought would be that it is in the interests of society generally to reduce the level of unemployment along the border, and this might be accomplished, to some extent, by paying some of the older Green Card commuters to retire from the U.S. labor market. Such payments could be made to both workers past a certain age who opt to take the payments instead of working in the U.S., and to workers of a certain age (perhaps an earlier age) who are forced out of the U.S. job market because their wages do not meet the adverse effect standard. There would be no point in such a program unless there were a fixed number of commuters, and the early retirement scheme would take some of the slack out of the labor market. Further, since such a program would be a very specialized one, and relatively short-term, it should not be built into the social security or unemployment insurance legislation, though it might be administered by the local social security offices.

In addition to retiring some workers, and helping others move to the U.S., it would be useful to have a Federal aid program to the affected communities, much like the impacted areas school aid program. This should either be a lump sum to the localities, or else it could be spread among the kinds of municipal and county programs most likely to be affected by the new arrivals -- such as housing and schools. The border cities have a right to Federal assistance when a new national policy threatens to disrupt their local budgets.

G. Law and Order

Without one new law, and without a single new regulation, the Government could substantially improve the life of the American resident worker along the border, simply by enforcing existing laws.

The border needs a new "Operation Wetback" to rid the labor force of these workers; and it needs a tighter border to keep the ejected illegals back in Mexico. This simply requires will, ingenuity, money, new equipment, more men and better cooperation among the enforcement agencies.

It would help if wage-hour enforcement personnel along the border were doubled. A dozen investigators,for instance, could check on the employers of illegals who have paid less than the minimum wage, an enforcement approach which is not, to our knowledge, currently used. Others could check on the low wages paid to legal border crossers.[13]

Commuting would become a bit less convenient if the Post Office Department simply stopped renting boxes to people who do not live in this country.

Social security contributions are made so routinely in so much of our society, that the enforcement of this requirement has very little priority in the Internal Revenue Service's scale of values. An intensive drive on this score along the border would find many violators among the

employers of domestics and farm workers, both legal and illegal. As noted earlier, we know of no ongoing program of cooperation between the Immigration and the Revenue Services on this score. (Our survey suggested that there are substantial violations of the social security tax provisions; 78.7 percent of the illegals did not possess social security cards indicating that it would have been impossible for their employers to make the returns; in addition, 17.6 percent of the citizen commuters and 4 percent of the Green Card commuters said no social security deductions were made.)

Whereas enforcement of social security contributions might make some common border labor practices less attractive to employers, so a similar drive on income tax violations by commuters might make American employment less attractive to commuters. (Our survey shows that 10 percent of the alien commuters do not file income tax returns.) I see no reason why, on June 30th of each year, each commuter, whether citizen or alien, should not have to file with INS a document issued to him by the Internal Revenue Service indicating that he had, in fact, met his tax obligations.

Similarly, efforts should be made to make sure that adult male commuters carry draft cards; periodic checks should be made at the bridges and the gates during the early morning rush, and spot checks should be used to detect forged cards. (Draft cards would be much easier to forge than Green Cards, passports

or money.) Also, commuters should, like residents of Puerto Rico, be given the draft test in Spanish.

The document checking process on the border, during the rush hour, is a mass-production operation, in which the inspectors must seek to do their duty without creating traffic jams. It would be helpful to the labor market, if not to the individual commuter, if this process became much more detailed and time consuming, either regularly or at unpredictable intervals. (The border crossing process is slowed substantially, on occasion, when the Customs Service makes a really thorough search for drugs -- why can't the same process be employed, with equal vigor, to protect American resident workers from illegal foreign competition?)

The suggestions made so far have dealt with Federal law enforcement; the States could help too, if they felt so inclined.

As you cross the border into Texas there is always a State employee waiting to collect the State sales tax on the one bottle of liquor you can bring in with you. (He is essentially protecting the State's treasury and its liquor interests.)

Why could not a similarly uniformed man make sure that the incoming commuter has a valid American driver's license and current American automobile insurance which is compulsory in Texas? (We found that 85 percent of the commuters

who owned cars had them registered in the United States.)

Similarly, California could step up its enforcement of its own agricultural minimum wage, field sanitation requirements, temporary disability insurance taxes and similar labor laws.

In the same general field, the enforcement of non-border related laws, it would be useful to broaden the coverage of the Federal minimum wage , improve and enforce the farm labor crew leader registration law, repeal the aforementioned Texas Proviso regarding the employment of illegal aliens and expand farm workers' coverage under the social security law. States could take similar steps.

The only visible evidence of stepped-up law enforcement along the border has nothing to do with improving the lot of the resident working poor; it deals with protecting the Nation from narcotics. (See Appendix.)

H. A Commutation Tax

One way to ease the impact of the commutation practice on the local tax structures would be to tax the practice directly.

Currently, commuters pay few taxes, and virtually none of them pay local property taxes, which are most important to the border cities. The border cities are, with the usual exception of San Diego, very poor.

A weekly tax on alien commuters of, say, $1.00, to be collected from employers (and not deducted from the commuters' wages) would tend to make border employers less likely to discriminate against American resident workers.

Such a tax could be divided four ways; to city, county, State, and Nation. It should be collected by the Federal Government because its techniques would be more effective and more even-handed than those of the other jurisdictions.

No single city or county would receive a major part of its budget in this manner, but it would help some of the smaller jurisdictions.

This is proposed, essentially, as a special tax, to help encourage employers to look to American residents when they need to hire workers.

I. Economic Development

The economic problems of poor American residents of the border area can be alleviated, but not solved, by adjustments to the commuter practice. Such adjustments will of necessity, be harmful to individual residents of Mexico.

Both commuters and resident workers can be helped by general economic development of the border, something which is easier to write about than to accomplish.

There are efforts along these lines, notably the creation in 1967 of the Joint U.S.-Mexico Commission on Border Development and Friendship (CODAF). As indicated earlier, some Federal funds are flowing into American border communities through the Economic Development Administration and through Model Cities programs

All of this is commendable, but the level of spending is not high enough to make any appreciable difference.

Meanwhile, the United States has concluded that Mexico is a developed Nation, and therefore does not need A.I.D. anymore. That decision, like the Department of State's stand on the commuter problem, reflects the pressures on that agency, the least of which stem from the needs of the working poor of the U.S. border. A continuing A.I.D. program could, if aimed at the right part of Mexico, help stem the flood of internal migration north in Mexico, and thereby bring a little more balance to the international labor markets along the border.

The Nathan Report recommends a variety of relatively conventional economic development operations which should be set in motion immediately. The report suggests the creation of ten development subregions to press for locally feasible economic development programs; it calls for outside funding, initially,of this activity, and for manpower training programs. It stresses the potential significance of expanding expenditures in the governmental and manufacturing sectors.

The Checci Report (like the Nathan one, sponsored by CODAF) makes a number of useful suggestions about how more tourist dollars can be brought into the south Texas triangle, which includes that part of the border east of Del Rio. Checci recommended the development of four tourist attractions in the border counties, a beach club on Padre Island, a houseboat motel on the shores of the Falcon Reservoir, Kickapoo Cave in Kinney County and a complex of facilities to take advantage of Eagle Pass' history. These proposals are aimed at both Government officials and private investors, and all should be acted upon.

This general subject is a bit removed from the main thrust of this report, but we would like to add a suggestion, which might complement some of the economic development proposals of others. That would be to negotiate a treaty with Mexico to secure bi-national ownership of the Rio Grande bridges. A newcomer to the border is immediately struck by the fact that

one has to pay toll over the relatively small bridges over the Rio Grande, while elsewhere in the Nation bridges of this size are toll free.[14] Despite modest tools the bridges are gold mines to their owners; all seem to have dual ownership, with the American side generally owned by the American county or city. (Exceptions: The Missouri Pacific Railroad's bridge in Brownsville, the privately owned bridge at Progresso, and the twin bridges in EL Paso, owned by the National Bus Lines.)

Once the bridges had been purchased (for cash from private owners and for cash plus a continuing share of the profits, from the local governments) tolls could be raised and the two governments could use the profits to underwrite substantial economic development operations on both sides of the Texas border. The current toll arrangements probably would have to continue, with the Mexicans charging a lower rate for Mexico-to-U.S. traffic, while the Americans charge more for the U.S.-to-Mexico traffic.

We know the bridges are profitable; for instance, bridge revenue has been used by Cameron County, which owns one of the Brownsville bridges, to cut taxes: they are used in El Paso to subsidize the city's bus operation, which charges only a dime fare; and the whole prospect is so attractive that the city of Pharr (in the Valley) wants to build such a bridge ten miles south of town, and has extended its city limits along the road to the bridge site to make it possible.

All the economic development conceivable, however, will not do much for American resident workers unless something is done to stem the flow of commuters.

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J. Non-Governmental Actions

There is a wide variety of actions which non-governmental organizations could take which would help the border's resident working poor.

The most obvious (but unlikely) would be for industry to adopt the posture of the border's local governments, i.e., to hire only residents. Some firms have this policy, but it appears that most companies who need unskilled workers do not. (One of El Paso's giant clothing firms makes a fuss about only hiring citizens, but not necessarily resident citizens. The firm's buses go to the bridge every morning to pick up the non-resident citizens.)

Private enterprise elsewhere in the Nation could re-evaluate the American side of the border as a potential location for its expansion. Some kinds of activities, particularly light manufacturing, can be located profitably on the border, and there is some limited movement in that direction. (The border cities, however, simply do not do very well in the plant location sweepstakes, because they do not make the free-land, no taxes-for-five years deals made by competing towns, and there are forces in each city which do not want to bring in new industry which might cause wages to rise. The Chamber of Commerce in Laredo, for instance, could not raise any money for industrial development activity until it successfully approached the local CAP!)

Similarly, the unions might spend considerably more time and energy in organization efforts along the border. Currently the A.F.L.-C.I.O. and the United Auto Workers are jockeying with each other to see who can do more for Cesar Chavez and his farm workers. Meanwhile, Chavez is in Delano, and there is no one with either his fame, his skill or his effectiveness working along the border (the area of his birth).

The major universities also could pay more attention to the border; there is a constellation of excellent educational institutions in San Diego, and the fast-growing (and name changing) University of Texas at El Paso. It strikes us that an economically and culturally deprived border city could benefit tremendously by the creation of a campus devoted to Latin American studies, for instance, or perhaps a joint U.S.-Mexico educational institution.

Individual retirees and institutions catering to them might find excellent opportunities in the border areas east of San Diego, where prices are low and temperatures are warm. Mexican American and other organizations, can schedule their conventions in border cities. More church and foundation funds could be spent, and invested along the border.

This is not an area where government has a monopoly on the ability to cause change.

K. Pro-Resident Discrimination

We have discussed the leakage of Federal programs across the border, the indirect hiring of commuters on contract and grant programs, and the direct employment, by government, of non-resident citizens. We have also mentioned the lack, until recently, of EEOC guidelines on the question of national origins, and the opportunity that has been missed as a result.

On a more positive note, we would like to suggest an active government-wide policy of preference for residents in all federally-assisted employment situations, no matter how indirect. For instance, all Federal agencies would be instructed to see to it that all employees who hold jobs in the United States live in the United States. All grant programs would be given similar instructions. All suppliers to the Government, including agricultural ones, would have to certify that their employees live in the country.

It would be helpful -- but difficult to accomplish -- if farmers receiving subsidies either had to prove that their workers lived in the country, or else were penalized in some manner for employing non-residents.

Some parts of this policy could be accomplished by agency regulation, and others would require legislation.

We are not suggesting that employers be allowed or encouraged to discriminate against legally-admitted aliens, only non-residents. We think it should be legal for employers to discriminate against non-residents, but that it be illegal for employers to discriminate against residents.

L. What Should Be Done About The Illegals

General Swing proved that if you have the right combination of vigor and resources you can virtually eliminate the illegal entrant from the work force. (He also was aided by the bracero program.)

The time has come for repetition of "Operation Wetback" though hopefully with a little more care about the legal workers who may get swept up in the tide.

Not only is there a need for a para-military operation on the illegals, but also a multi-agency attack on their employers. Leads for this approach exist in abundance. (In our conversations with apprehended illegals we found them very free to talk, even about their own earlier illegal entries, their entry techniques and their plans to do it again.)

An employer who hires an illegal, particularly those who do it knowingly,is very likely to:

1. violate the minimum wage law,

2. not deduct social security taxes, or sometimes deduct them but not pay them to the Government,

3. violate State minimum wage and workmen's compensation laws,

4. violate, where they exist, other State labor laws, such as California's field sanitation law, her farm labor housing codes, etc.

Information on all of these points can be secured from the illegal, and could be used against the employer even without the elimination of the Texas Proviso. The INS, as a logical

part of its work, should reach out to the Internal Revenue Service, to the Wage and Hour Administration, and to relevant State agencies and work out a mutual approach to these matters.

Further laws of regulations regarding the draft should be changed, so that the illegal who is also a draft dodger gets into trouble; similarly, a social security card in the hands of an illegal should be confiscated, not handed back to him, as is now the case, and the Social Security Administration told not to issue a new one to that person until he arrives legally.

The Social Security Administration, the Employment Service and the Post Office (in connection with money orders being sent to Mexico) should demand to see documents of those suspected of being illegals, as they do not do now. (There probably should be at least a token additional appropriation for this activity, so that the agencies involved can not claim that they are not paid to do this work.)

We found , in our survey of illegals, that 77.3 percent of them had crossed the border illegally, but that 22.7 percent of them had crossed through border check points, but had either forged documents or were working on a document which did not allow work. Obviously a far tighter control at the border points, as well as more planes, fences and patrolmen are needed at the border.

It would also help if the 72-hour crossing pass could be buttressed with a document which showed when the visitor crossed the line. Such a document should show the visitor's

number, and the hour of his crossing. If the border card were an electronically sensitive object, perhaps it could be stuck into a simple machine which would print out the crossing information. This would allow the border patrol to pick up anyone with a border card (but without a less than 72-hour old crossing ticket), and then suspend or terminate crossing privileges.

Sheldon Greene, of California Rural Legal Assistance, has suggested several additional steps for containing the flow of illegals, such as renewal of border cards every four months (making it easier to revoke cards of violators), the attachment of fingerprints to the card (to make identification of illegals easier), giving INS the power to levy administrative fines on illegals, and to confiscate vehicles used in the transportation of illegals.

Generally, in order to control the flow of illegal workers, it will be necessary both to make life less convenient for the worker, and the whole process more risky and less profitable to the employer. Only the former approach has been tried in the past.

M. What Should Be Done About the Citizens?

The citizen commuters is a new, and we suspect, fast growing phenomenon. The work force appears to be a fairly young one and can increase in size without any necessity to secure any documents from anyone. There is no reason to believe that the birth rates of American citizens in Mexico will be much different from those of their neighbors who are Mexican Nationals.

We can imagine only two ways to impede the growth of this work force, and none to limit its continuing right to commute. The two approaches are to discourage, through indirect efforts, the commutation practice, and to change the rules regarding the creation of new citizens.

We have suggested a variety of ways in which commutation, generally, can be made less convenient for the workers and less profitable for the employers. All of these devices could be used on citizen as well as alien commuters.

For instance, citizens as well as aliens, could be made to register for the draft; their ability to cross the border would be dependent on their furnishing good conduct cards from the Internal Revenue Service; they, too, would have to pay higher tolls on the bridges, and the like.

Similarly, their employers, could pay the commutation tax, and face a higher incidence of labor standards inspections than other employers. The existence of an American resident

preference law would also have an impact on citizen commuters' employment opportunities.

As to the creation of new citizens, it is useful to recall how this happens along the border. Very few citizens are naturalized, most are born in the United States, and others are born to American citizen parents in Mexico (securing their citizenship through derivation). It is this last category which interests us, and seems to call for change, otherwise we will create generations of American citizens, none of whom have ever lived in this Nation.

(It is useful to recall that 34.1 percent of the citizen commuters we interviewed had never lived in the United States. It is also significant, though the sample is small, that 60 percent of those securing their citizenship through derivation have not lived in the United States.)

Our suggestion would be that the immigration laws be changed to put those who now become citizens by derivation in a new category, that of potential citizen. They would be able to cross our borders at will -- except to become commuting workers -- and could become full-fledged citizens after they have lived here for three or five years. This would not cause any hardship on people (like George Romney) who happen to be born in Mexico of American parents because they could become full-fledged citizens while children, simply by living here for a while.

N. What Can Be Done About Strikebreakers?

This is perhaps the simplest of the three questions we have posed. Strikes are both public and relatively rare, hence law enforcement is relatively uncomplicated (unless the law makers have deliberately complicated matters).

There are some definitional problems, however. There are four situations which should be examined:

1. The illegal strikebreaker. No law or regulation is needed here, for the mere presence of the illegal is against the law. The author has had only one first-hand contact with illegal strikebreakers, and the INS moved swiftly and effectively.* There apparently have been some illegals involved in the Delano strikes, but this has not been a major factor.

2. The Green Card commuter strikebreaker. These workers are partially, very partially, controlled by the Justice Department's regulation on the subject. (See pages 54-56.)

3. The resident Green Card strikebreaker. There is a

*This strike involved a major chicken grower-processor and a very minor would-be union, which was unknown to the NLRB, to the Labor-Management Services Administration, and which was without a single contract. This would-be strike leader told me of the presence of the illegals, in a telephone call to my house one midnight and, as I recall, collect. INS gathered dozens of patrolmen, and in two pre-dawn raids found 39 illegals on the employer's premises; the employer then switched to Indians and the strike failed.

serious definitional problem regarding who is, and who is not a commuting strikebreaker, and who is a resident one. This is the crux of the Giumarra case we have discussed before.

Setting this factor to the side, there remains the policy question of whether or not resident aliens should be allowed to break strikes, as they can now. Some union people want, in effect, legislation which would require one to be a citizen to break a strike. Many immigration specialists do not want to set up any more distinctions between citizens and aliens, and oppose the labor position, as of course, does management. We cannot see how the union position on this point would carry the day in Congress, and are not very enthusiastic about it.

4. The non-resident citizen strikebreaker. We have neither seen nor heard anything on this category, but it exists. We do not see how a distinction could be made between resident citizen strikebreakers and non-resident ones, and doubt that this will be an area of controversy for some time to come.

Either the Mondale-Thompson bill, mentioned earlier, which would make the use of alien commuter strikebreakers an unfair labor practice, or a strengthened INS regulation could stop the practice. Interestingly, neither the regulation nor the bill have the usual agricultural exclusion clause.

O. The Mexican Reaction

It is our feeling that those supporting the status quo on the border put too much emphasis on the Mexican reaction to reform proposals.

Mexico has put up with a long history of changing Yankee border regulations and I doubt that a new set of rules regarding Green Card commuters would make much difference in the long run. Certainly Mexico accepted, gracefully, the end of the bracero program which was far more significant to it than the commuter program.

Further, as we have pointed out again and again, the U.S. government fairly regularly risks the ire of the Mexican Government, when a new border regulation is regarded as sufficiently important to do so. We have mentioned the crackdown on narcotics traffic in the fall of 1969 and the cutback of the liquor allowance of 1965. Along the same lines, earlier in 1969 the Department of Agriculture, through a marketing order issued at the request of Florida tomato growers, barred the importation of certain kinds of Mexican tomatoes. There was a brief furor, Mexican customs confiscated some incoming goods (at San Diego, anyway) but it all soon blew over.

Mexico, of course, does have a legitimate interest in the commuter traffic and will, we are sure, continue to present its point of view to the State Department.

It would be our feeling that a mild reform package, consisting of little more than an end to the creation of new commuters and some law enforcement on our side of the border, could be put into action without causing diplomatic problems.

A bolder package, which would also include some regulation of the current commuters, causing some of them to move, would be more difficult, but not impossible. Under those circumstances it might be advisable to arrange some sort of trade-off with Mexico, and a number of elements in the optimum package we will discuss in the next section, fit that description neatly. More specifically, a restoration of A.I.D., or some other form of economic development activity for Mexico, would be most appropriate under these circumstances.

All of the above is written with the current friendly relations of the two countries in mind; should the United States want to take a tougher attitude I am sure it could carry the day, and that Mexican retaliation (such as enforcing its own customs laws) would not last very long.

It should be borne in mind that the commutation practice is <u>not</u> a two-way street. Only a handful of American executives live in the United States and work in Mexico (generally managers of the so-called twin plants). Further, Mexico has much more to lose than we do should there be a slowdown of border trade and traffic.

P. An Optimum Package

We recommend that a number of steps be taken to tighten the labor markets along the U.S.-Mexico border, in a humane way, and that the whole commutation practice be made less profitable and less convenient for all concerned. To achieve these objectives, we propose the following comprehensive package:

1. End the creation of new alien commuters.

2. Put into operation a well-researched and slow-acting adverse effect formula, such as would be possible with the Kennedy bill, designed to nudge up wages rather than cause mass migration. Such a formula should include an escape procedure for workers, who for special reasons (such as imminent retirement or withdrawal from the labor force for some other reason) should be allowed another year or two of status quo, rather than immediately facing the choice of moving or losing their right to commute to their American jobs.

3. Institute an annual review of all relevant information before the alien commuter secures his renewed Green Card. At that time, an examiner would check out his employment, his tax records, his draft card, and the like, and at the same time, make sure that his employer (who would also be present) had lived up to the adverse effect rules and other labor standards.

4. Create a program, outside of current social insurance programs, which would give financial benefits to older Green

Card commuters, who either opt to retire from the U.S. labor market to accept these payments, or who are forced out of the labor market because their jobs do not pay the adverse effect wage.

5. Start a commutation tax on employers who employ non-resident workers.

6. Launch a vigorous campaign of law enforcement, in the tax, labor standards, social insurance and immigration fields, as proposed earlier.

7. Press forward with an extensive economic development plan which will be designed to help the working poor, as well as the community at large, including better utilization of the bridge revenues, and full implementation of the Nathan and Checci recommendations.

8. Set in motion a Government-assisted migration program, spelled out earlier, both for newly arriving Green Card holders who have been forced to move, by an adverse effect formula, and for permanent residents of the American border areas, wishing to move into the interior of the United States.

9. Encourage employment discrimination in favor of residents of the United States.

10. Improve and expand the INS program to apprehend illegal entrants, and devise techniques to keep the illegals from entering again, such as imposing far stricter controls on the border cards.

11. Change the immigration law to make sure that everyone born abroad to citizen parents must live in the United States before becoming an American citizen.

12. Through new regulations or new laws, establish a workable program to eliminate non-resident alien strikebreakers.

It is unreasonable to expect that the entire package or even most of it can be put into motion during the next few years, but a start can and should be made, or else we will continue to witness the continuing artificial flooding of some of the most depressed labor markets in the Nation.

Notes on Chapter VIII

1. Rungeling, op. cit., p. 146.

2. INS, in its review of this report, noted at this point "An indication by an immigrant that he desires and intends to commute to employment or for other purposes is not a basis for a finding of inadmissibility." This supports the information on the subject acquired along the border.

3. The Nathan Report, op. cit., pp. 32, 34, 35.

4. Report of the Secretary of Labor, "Year of Transition," U.S. Department of Labor, 1966, p. 10.

5. Hearings of Subcommittee on Immigration and Naturalization, op. cit., p. 105.

6. Select Commission, Hearings--Part II--San Diego, op. cit., pp. 104 and 120.

7. Ibid., Part IV--Detroit, p. 162

8. Rungeling, op. cit., pp. 108-110.

9. Select Commission, Hearings--Part III--Brownsville, op. cit., p. 138.

10. Real Estate Research Corporation report, op. cit.

11. Select Commission, Hearings--Part III--Brownsville, op. cit., p. 141.

12. Rungeling, op. cit., p. 147.

13. We do not know how many of the Green Card commuters are not receiving the minimum wage set by law, but we do know that 20.3 per cent of those we interviewed were making less than $1.30 an hour, the lowest minimum wage (for agriculture) and 30.5 per cent were making less than $1.46 an hour. We do know that only 2.0 per cent of the surveyed commuters had had any contact with the Fair Labor Standards Act, and only half of this small group (four individuals) had secured any relief as a result.

14. The bridge at the Falcon Dam is the only free one. It also is the only one owned by the two national governments.

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Appendix A

Methodology

The three surveys conducted during this research project were handled by a team of bi-lingual, Mexican American interviewers, generally working within a few miles of their homes in the United States. Most of the conversations were in Spanish.

The sample selection was handled differently for each of the surveys. For the Green Card survey, we used the Department of Labor's file on the 40,176 commuters counted by INS in November and December, 1967. The Department's Farm Labor Service had previously secured photostatic copies of the forms filed by the commuters at the time that their cards were grommeted. The cards were arranged first by crossing points, and then, within that category, by occupation.

We took every hundredth card (and the hundred and first and the hundred and second) for the basic sample. Interviewers were told to find the hundredth commuter and interview him, and, if he did not succeed, to proceed to the hundred and first. Although the cards were two and a half years old when the interviews took place, and although the interviewer often had a photocopy of a photocopy of a scrawled name and address, we generally found the hundredth commuter.

An exception was in San Luis where precise street addresses were rarely noted on the cards, and where much of the

population was in California doing farm work. Here our interviewer often had to get to the hundred and fifth or hundred and sixth before finding a respondent.

This difficulty may have produced a slight occupational bias among those interviewed in San Luis, because 35 of the 36 interviewed were farm workers, which is a little more than the ratio of farm workers to the entire commuter labor force in San Luis reported in the Farm Labor Developments article.

The survey of the illegals was conducted at the three detention centers operated by INS, with an equal number of interviews being conducted at each place. Since we talked with about 25 men at each place, and since there was an average of 150 or so men in residence at each center, we saw a substantial proportion of those on hand at the time of our visit.

Apprehended illegals have a lot of time on their hands in these places, and we had many more volunteers to be interviewed than we needed. (INS, understandably, wanted us to talk with only those who volunteered to be interviewed.) In each place we simply took the first ones who volunteered.

There are two possible problems with this process. In the first place, we only talked to unsuccessful illegals (ones that had been caught) and secondly, we talked with those who were willing to talk. Perhaps we would have gotten different responses from the ones who were free, or from the handful who did not volunteer, but we simply could not reach

either group. (We had offered to interview illegals before they were caught, at a slightly higher rate per interview, but the Labor Department preferred us to talk to the captured ones.)

Whereas we got a rough geographic cross section in our Green Card and illegal interviews, we did not do so in the citizen survey, though we tried.

There is no list of citizen commuters in existence as there is for the alien commuters, nor are they conveniently herded together, as are the illegals. Further our interviewers had differential luck in dealing with the border consulates, which do have records of some citizens living in Mexico. As a result, most of the citizens were interviewed at the American Consulate-General in Juarez, where Consul General William Hughes was particularly helpful, at the bridge at El Paso, and in the farm labor shapeups in Brownsville and at various locations in Matamoras. Most of the citizens crossing the line to work do so along the Texas border, but we would have liked to have talked to some citizen commuters further west.

There are some written materials on the Green Card commuters, almost exclusively the transcripts of Federal hearings on the subject, with the best being those of the Select Commission on Western Hemisphere Immigration. These also have the advantage of being published.

There is virtually nothing on either the citizen commuter (which is understandable, this being a relatively new and

obscure subject) or the illegal immigrant (which is harder to understand). The latter gap hopefully will soon be filled by the publication of a work on the subject by the noted sociologist, Dr. Julian Samora of the University of Notre Dame.

There presumably is a wealth of untapped material within the files of INS, but little of it has been tabulated, and the Service is not oriented to doing research on the social and economic aspects of its operations.

Appendix B

The Canadian Border

Although this report is concerned with workers crossing the nation's southern border, there is a two-way traffic of workers across the Nation's northern border as well.

There is really very little data on this subject, because it is of little significance to either Nation. Wage rates -- except along the New England border -- are very comparable, and the total numbers involved are not great.

The last count of alien commuters from Canada was taken in January ,1966 and it showed, state by state, these totals:

State	All Commuters	Agricultural Workers
Maine	2,571	2,015
New Hampshire	8	8
Vermont	482	136
New York	1,466	10
Michigan	6,074	0
Minnesota	30	0
North Dakota	0	0
Montana	2	0
Idaho	0	0
Washington	54	0
Alaska	1	0
TOTALS	10,688	2,169

The high count of agricultural workers going into Maine in January is due to the influx of woods workers, particularly in areas which can not be reached, by road, through the United States.

The large figure for Michigan reflects the flow of Canadian workers into Detroit, which was discussed on page 92.

The U.S. rules on the Canadian border are exactly the same as on the Mexican border, except that there is the previously described enforcement of the six month provision at the Detroit-Windsor crossing point.

The Canadian regulations of U.S.-based commuters, working north of the border, are, in fact, milder than ours, probably because the American workers are not numerous and they do not threaten Canadian wage levels.

The Canadians operate a straightforward work permit system, with no requirement that the American indicate that he plans to settle in Canada. Work permits are issued to Americans who meet these tests:

1. Citizen of the United States or permanent legal resident of the United States.
2. In good health.
3. Of good character.
4. Maintains permanent residence in the United States.
5. Going to pre-arranged employment.

The Canadian regulations make it clear that there is no need to check with the Canadian Employment Service to see if the job could be filled by a Canadian, nor is there, routinely, a need for a medical examination, nor wage tests. I learned this from H.W.P. Thompson, Officer in Charge, Immigration Branch, Canadian Consulate General, New York City.

The decision to issue -- or not to issue -- a work permit is made by the officer in charge at the port of entry.

The Canadians collect few statistics on this subject. They know that they have issued no such permits in the Pacific Northwest, and that in May, 1968 there were 567 Americans crossing into the Ontario ports of entry, (Sarnia, Windsor and Fort Erie, primarily). They estimate the total crossings at 1,000.

Appendix C

Operation Intercept

Late in the time period allocated for this report, the United States Government launched a comprehensive program for curbing the the influx of drugs across the Mexican border. It was called "Operation Intercept" and it started on Sunday, September 21 (after its forthcoming arrival had been leaked well in advance).

On that day, and for the next three weeks, every automobile crossing the border was searched, as were many people crossing on foot. Since border inspections are usually superficial or non-existant, this meant that substantial additional manpower had to be assigned to the border. Even with the extra manpower, the result was -- particularly for those driving -- lengthy delays at the crossing points.

The searches did not produce much in the way of drugs, simply because drug smugglers found other ways to move their goods. As the Washington Post headline put it, on September 23, 1969 "Search of 418,161 fails to catch a single marijuana smuggler."

"Operation Intercept," did manage to slow traffic at the border so drastically that there were floods of protests from all concerned, from American employers (whose Green carders kept showing up late to work), from inconvenienced tourists and from U.S. border businessmen whose Mexican customers stayed away in droves. In addition, the Mexican Government protested vigorously.

Newspaper accounts indicated that the objective of the whole procedure (in addition to letting the country know that the Justice Department was serious about its desire to curb the importation of drugs) was to bring pressure on the Mexican Government to do more to control the production and movement of drugs within its own borders. Extensive negotiations in Mexico City led to an announcement on October 10, that "Operation Intercept" was being ended, and that new arrangements had been worked out with Mexico for controlling the drug traffic.

"Operation Intercept," did cause some commuters to lose their jobs, according to the press, but that is not the prime reason for mentioning it in this report. "Operation Intercept" is of interest because it shows how significant the "Mexican reaction" argument really is to the United States Government.

Time and again,those who do not want any change in the commutation practice, contend that nothing should be done for fear of annoying Mexico. The State Department has taken this position in the past most notably in Secretary Rusk's intervention in the Texas AFL-CIO case.

No change in the Green card commuter procedures, however, could possibly cause as much disruption on the border as "Operation Intercept."

The only conclusion which can be drawn is that the Government pays more attention to those who wish to suppress drugs than it does to those who wish to raise wages on the border.

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SURVEY RESULTS

TransCentury Survey of Green Card Commuters

June - July, 1969

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SEPTEMBER 13, 1969

T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

	MALE	FEMALE	TOTAL
Q.5 IS INTERVIEWEE NOW COMMUTING TO WORK IN THE U.S.			
YES	97.69% 296	95.88% 93	97.25% 389
NO	2.31% 7	4.12% 4	2.75% 11
TOTALS	100.00% 303	100.00% 97	100.00% 400
Q.6 HAS INTERVIEWEE COMMUTED IN THE LAST 6 MONTHS			
YES	1.98% 6	4.12% 4	2.50% 10
NO	.33% 1	-	25% 1
NOT APPLICABLE	97.69% 296	95.88% 93	97.25% 389
TOTALS	100.00% 303	100.00% 97	100.00% 400
Q.7 IF NOT COMMUTING DOES HE PLAN TO RESUME WITHIN THE NEXT 6 MONTHS			
YES	100.00% 1	-	100.00% 1
TOTALS	100.00% 1	-	100.00% 1
Q.9 DO YOU LIST AS YOUR RESIDENCY ANY OTHER PLACE IN THE U.S.			
YES	32.78% 98	36.17% 34	33.59% 132
NO	67.22% 201	63.83% 60	66.41% 261
TOTALS	100.00% 299	100.00% 94	100.00% 393

SEPTEMBER 13, 1969

T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

	MALE	FEMALE	TOTAL
Q. 10 WHAT IS YOUR OTHER RESIDENCE			
POST OFFICE BOX	18.37% 18	26.47% 9	20.45% 27
OTHER ADDRESS IN MEXICO	1.02% 1	2.94% 1	1.52% 2
STREET ADDRESS IN U.S.	72.45% 71	70.59% 24	71.97% 95
OTHER	8.16% 8	-	6.06% 8
TOTALS	100.00% 98	100.00% 34	100.00% 132
Q. 12 DO YOU PAY RENT FOR THIS HOUSE IN MEXICO			
YES	68.98% 209	69.07% 67	69.00% 276
NO	28.71% 87	25.77% 25	28.00% 112
NOT APPLICABLE	2.31% 7	5.15% 5	3.00% 12
TOTALS	100.00% 303	99.99% 97	100.00% 400

SEPTEMBER 13, 1969

T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

	MALE	FEMALE	TOTAL
Q.13 HOW MUCH RENT DO YOU PAY IN U.S. DOLLARS PER MONTH			
$ 0 - $ 5	.48% 1	1.49% 1	.73% 2
$ 6 - $10	8.65% 18	13.43% 9	9.82% 27
$10 - $15	8.17% 17	8.96% 6	8.36% 23
$16 - $20	21.15% 44	22.39% 15	21.45% 59
$21 - $25	16.83% 35	14.93% 10	16.36% 45
$26 - $30	15.38% 32	8.96% 6	13.82% 38
$31 - $35	13.46% 28	16.42% 11	14.18% 39
$36 - $40	10.58% 22	11.94% 8	10.91% 30
OVER $40	5.29% 11	1.49% 1	4.36% 12
TOTALS	99.99% 208	100.01% 67	99.99% 275

SEPTEMBER 13, 1969

T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

	MALE	FEMALE	TOTAL
Q. 14 WHAT IS THE PROPERTY TAX IN U. S. DOLLARS PER MONTH			
$ 0 - $ 1	2.30% 2	-	1.79% 2
$ 1 - $ 2	22.99% 20	12.00% 3	20.54% 23
$ 2 - $ 4	16.09% 14	12.00% 3	15.18% 17
$ 4 - $ 7	10.34% 9	24.00% 6	13.39% 15
$ 7 - $10	5.75% 5	-	4.46% 5
$10 - $15	2.30% 2	-	1.79% 2
$15 - $20	3.45% 3	-	2.68% 3
MORE THAN $20	6.90% 6	12.00% 3	8.04% 9
NO ANSWER	29.89% 26	40.00% 10	32.14% 36
TOTALS	100.01% 87	100.00% 25	100.01% 112
Q.20 DO ANY MEMBERS OF YOUR FAMILY LIVE IN THE U.S.			
YES	61.39% 186	73.20% 71	64.25% 257
NO	38.61% 117	26.80% 26	35.75% 143
TOTALS	100.00% 303	100.00% 97	100.00% 400

SEPTEMBER 13, 1969

T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

		MALE	FEMALE	TOTAL
Q.21-22	IF YES, HOW MANY			
01		19.89% 37	26.76% 19	21.79% 56
02		24.73% 46	21.13% 15	23.74% 61
03		23.12% 43	25.35% 18	23.74% 61
04		8.06% 15	8.45% 6	8.17% 21
05		8.06% 15	9.86% 7	8.56% 22
06		6.45% 12	4.23% 3	5.84% 15
07		3.76% 7	-	2.72% 7
08		1.61% 3	-	1.17% 3
09		1.08% 2	-	.78% 2
10		1.08% 2	-	.78% 2
11		.54% 1	-	.39% 1
12		-	1.41% 1	.39% 1
14		1.08% 2	-	.78% 2
15		-	1.41% 1	.39% 1
20		.54% 1	-	.39% 1
25		-	1.41% 1	.39% 1
	TOTALS	100.00% 186	100.01% 71	100.02% 257

SEPTEMBER 13, 1969

T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

	MALE	FEMALE	TOTAL
Q.23 WHERE WERE YOU BORN			
WITHIN SAME COMMUNITY AS CURRENT RESIDENCE	45.87% 139	56.70% 55	48.50% 194
WITHIN SAME STATE AS CURRENT RESIDENCE	10.23% 31	14.43% 14	11.25% 45
BORN IN ANOTHER MEXICAN BORDER STATE	10.23% 31	8.25% 8	9.75% 39
BORN IN INTERIOR	33.33% 101	20.62% 20	30.25% 121
OTHER	.33% 1	-	.25% 1
TOTALS	99.99% 303	100.00% 97	100.00% 400
Q.25 LIST OTHER RESIDENCES WHERE YOU HAVE LIVED IN LAST 5 YEARS BESIDES BIRTHPLACE			
WITHIN SAME COMMUNITY AS CURRENT RESIDENCE	34.48% 10	36.36% 4	35.00% 14
WITHIN SAME STATE AS CURRENT RESIDENCE	3.45% 1	9.09% 1	5.00% 2
IN ANOTHER MEXICAN BORDER STATE	3.45% 1	-	2.50% 1
IN INTERIOR	17.24% 5	-	12.50% 5
UNITED STATES	41.38% 12	54.55% 6	45.00% 18
TOTALS	100.00% 29	100.00% 11	100.00% 40
Q.28 HAVE YOU IN LAST FIVE YEARS SEASONALLY MIGRATED ELSEWHERE			
YES	33.56% 99	29.47% 28	32.56% 127
NO	66.44% 196	70.53% 67	67.44% 263
TOTALS	100.00% 295	100.00% 95	100.00% 390

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T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

	MALE	FEMALE	TOTAL
Q.29 DO YOU DO FARM WORK WHEN YOU MIGRATE			
YES	67.92% 72	64.29% 18	67.16% 90
NO	32.08% 34	35.71% 10	32.84% 44
TOTALS	100.00% 106	100.00% 28	100.00% 134
Q.35 HAVE YOU EVER LIVED IN U.S.			
YES	53.33% 160	61.86% 60	55.42% 220
NO	46.67% 140	38.14% 37	44.58% 177
TOTALS	100.00% 300	100.00% 97	100.00% 397
Q. 36 HOW LONG HAVE YOU LIVED IN U.S.			
LESS THAN 6 MONTHS	22.50% 36	13.79% 8	20.18% 44
6 MONTHS TO A YEAR	23.75% 38	22.41% 13	23.39% 51
1 TO 2 YEARS	12.50% 20	12.07% 7	12.39% 27
2 TO 5 YEARS	13.75% 22	22.41% 13	16.06% 35
5 TO 10 YEARS	11.25% 18	13.79% 8	11.93% 26
OVER 10 YEARS	16.25% 26	15.52% 9	16.06% 35
TOTALS	100.00% 160	99.99% 58	100.01% 218

SEPTEMBER 13, 1969

T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

	MALE	FEMALE	TOTAL
Q.37 WHAT STATE DID YOU LIVE IN			
TEXAS	39.13% 63	51.72% 30	42.47% 93
NEW MEXICO	3.11% 5	6.90% 4	4.11% 9
ARIZONA	18.63% 30	13.79% 8	17.35% 38
CALIFORNIA	39.75% 64	29.31% 17	36.99% 81
OREGON/WASHINGTON/IDAHO	1.24% 2	-	.91% 2
WEST OF MISSISSIPPI RIVER	4.97% 8	5.17% 3	5.02% 11
EAST OF MISSISSIPPI RIVER	2.48% 4	6.90% 4	3.65% 8
TOTALS	109.31% 161	113.79% 58	110.50% 219

SEPTEMBER 13, 1969

TRANS CENTURY

GREEN CARD COMMUTERS

	MALE	FEMALE	TOTAL
Q.38 HOW WOULD YOU DESCRIBE YOUR JOB			
PROFESSIONAL OR MANAGERIAL	1.32% 4	-	1.00% 4
CLERICAL/SALES	6.60% 20	11.34% 11	7.75% 31
SKILLED LABOR	13.86% 42	5.15% 5	11.75% 47
SEMI SKILLED OPERATIVE NON GARMENT	2.97% 9	2.06% 2	2.75% 11
OPERATIVE GARMENT	1.32% 4	16.49% 16	5.00% 20
UNSKILLED LABOR NON AGRICULTURE	9.90% 30	2.06% 2	8.00% 32
AGRICULTURAL FIELD WORK	42.24% 128	29.90% 29	39.25% 157
SKILLED AGRICULTURAL WORK	1.98% 6	-	1.50% 6
DOMESTIC	2.64% 8	18.56% 18	6.50% 26
SERVICE TRADES	17.16% 52	14.43% 14	16.50% 66
TOTALS	99.99% 303	99.99% 97	100.00% 400
Q.40 HOW LONG HAVE YOU HAD THIS JOB			
LESS THAN 6 MONTHS	10.63% 32	4.17% 4	9.07% 36
6 MONTHS TO A YEAR	9.63% 29	2.08% 2	7.81% 31
1 TO 2 YEARS	22.59% 68	16.67% 16	21.16% 84
2 TO 5 YEARS	26.91% 81	35.42% 34	28.97% 115
5 TO 10 YEARS	15.61% 47	25.00% 24	17.88% 71
OVER 10 YEARS	14.62% 44	16.67% 16	15.11% 60
TOTALS	99.99% 301	100.01% 96	100.00% 397

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T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

	MALE	FEMALE	TOTAL
Q.48 HOW MUCH DO YOU MAKE AN HOUR IN THIS JOB			
UNDER .50	.99% 3	7.22% 7	2.50% 10
.51 - .75	.66% 2	8.25% 8	2.50% 10
.76 - .90	.66% 2	1.03% 1	.75% 3
.91 - 1.00	3.96% 12	3.09% 3	3.75% 15
1.01 - 1.15	3.63% 11	4.12% 4	3.75% 15
1.16 - 1.30	6.93% 21	7.22% 7	7.00% 28
1.31 - 1.45	9.90% 30	11.34% 11	10.25% 41
1.46 - 1.60	16.83% 51	11.34% 11	15.50% 62
1.61 - 1.80	31.68% 96	30.93% 30	31.50% 126
1.81 - 2.00	10.23% 31	4.12% 4	8.75% 35
2.01 - 2.50	6.27% 19	6.19% 6	6.25% 25
OVER 2.51	8.25% 25	5.15% 5	7.50% 30
TOTALS	99.99% 303	100.00% 97	100.00% 400

SEPTEMBER 13, 1969

TRANS CENTURY

GREEN CARD COMMUTERS

	MALE	FEMALE	TOTAL
Q.49 THIS JOB PRODUCES A WEEKLY TAKE HOME WAGE OF HOW MUCH			
$ 11 - $ 20	1.32% 4	6.19% 6	2.50% 10
$ 21 - $ 30	1.32% 4	7.22% 7	2.75% 11
$ 31 - $ 40	5.28% 16	6.19% 6	5.50% 22
$ 41 - $ 50	7.92% 24	10.31% 10	8.50% 34
$ 51 - $ 60	8.58% 26	16.49% 16	10.50% 42
$ 61 - $ 70	27.72% 84	23.71% 23	26.75% 107
$ 71 - $ 80	17.49% 53	12.37% 12	16.25% 65
$ 81 - $ 90	9.24% 28	4.12% 4	8.00% 32
$ 91 - $100	7.59% 23	2.06% 2	6.25% 25
$101 - $110	3.63% 11	3.09% 3	3.50% 14
OVER $111	9.90% 30	8.25% 8	9.50% 38
TOTALS	99.99% 303	100.00% 97	100.00% 400

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T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

Q.50 THIS JOB AND ANY OTHERS YOU AND YOUR FAMILY HAVE PRODUCED AN ANNUAL INCOME OF WHAT	MALE	FEMALE	TOTAL
UNDER $ 750	.99% 3	3.09% 3	1.50% 6
$ 751 - $1500	1.65% 5	8.25% 8	3.25% 13
$1501 - $2250	6.93% 21	11.34% 11	8.00% 32
$2251 - $3000	11.55% 35	16.49% 16	12.75% 51
$3001 - $3750	31.02% 94	22.68% 22	29.00% 116
$3751 - $4500	16.83% 51	12.37% 12	15.75% 63
$4501 - $5250	14.52% 44	10.31% 10	13.50% 54
$5201 - $6000	5.28% 16	2.06% 2	4.50% 18
$6001 - $6750	3.30% 10	7.22% 7	4.25% 17
$6751 - $7500	3.96% 12	3.09% 3	3.75% 15
$7501 - $8250	2.31% 7	2.06% 2	2.25% 9
OVER $8251	1.65% 5	1.03% 1	1.50% 6
TOTALS	99.99% 303	99.99% 97	100.00% 400

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T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

	MALE	FEMALE	TOTAL
Q.51 DO FEDERAL OR STATE MINIMUM LAWS APPLY TO YOUR JOB			
YES	51.49% 156	53.61% 52	52.00% 208
NO	11.22% 34	26.80% 26	15.00% 60
DON'T KNOW	37.29% 113	19.59% 19	33.00% 132
TOTALS	100.00% 303	100.00% 97	100.00% 400
Q.52 HAVE YOU EVER COMPLAINED TO ANYONE ABOUT MINIMUM WAGE VIOLATION			
YES	2.67% 5	4.35% 3	3.13% 8
NO	97.33% 182	95.65% 66	96.88% 248
TOTALS	100.00% 187	100.00% 69	100.01% 256
Q.53 WHAT HAPPENED			
LAW ENFORCED BACK PAY SECURED	- -	50.00% 2	22.22% 2
WAGES WERE BROUGHT UP TO STANDARD BUT NO BACK PAY COLLECTED	40.00% 2	-	22.22% 2
NOTHING HAPPENED	60.00% 3	25.00% 1	44.44% 4
OTHER	-	25.00% 1	11.11% 1
TOTALS	100.00% 5	100.00% 4	99.99% 9

SEPTEMBER 13, 1969

TRANS CENTURY

GREEN CARD COMMUTERS

	MALE	FEMALE	TOTAL
Q.54 ARE SOCIAL SECURITY DEDUCTIONS TAKEN FROM YOUR AMERICAN PAYCHECK			
YES	96.04% 291	89.69% 87	94.50% 378
NO	1.98% 6	10.31% 10	4.00% 16
DON'T KNOW	1.98% 6	-	1.50% 6
TOTALS	100.00% 303	100.00% 97	100.00% 400
Q.55 ARE U.S. INCOME TAXES DEDUCTED FROM YOUR AMERICAN PAYCHECK			
YES	59.93% 181	72.34% 68	62.88% 249
NO	39.07% 118	27.66% 26	36.36% 144
DON'T KNOW	.99% 3	-	.76% 3
TOTALS	99.99% 302	100.00% 94	100.00% 396
Q. 57 ARE UNION DUES DEDUCTED FROM YOUR PAYCHECK			
YES	7.64% 23	6.38% 6	7.34% 29
NO	91.69% 276	93.62% 88	92.15% 364
DON'T KNOW	.66% 2	-	.51% 2
TOTALS	99.99% 301	100.00% 94	100.00% 395

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TRANS CENTURY

GREEN CARD COMMUTERS

	MALE	FEMALE	TOTAL
Q. 68 DO YOU HAVE A BUSINESS OF ANY KIND IN MEXICO			
YES	1.67% 5	2.11% 2	1.77% 7
NO	98.33% 295	97.89% 93	98.23% 388
TOTALS	100.00% 300	100.00% 95	100.00% 395
Q. 72 DO YOU KNOW OR HAVE YOU EVER BELONGED TO AN AMERICAN UNION			
YES	11.55% 35	8.25% 8	10.75% 43
NO	87.13% 264	91.75% 89	88.25% 353
NO ANSWER	1.32% 4	-	1.00% 4
TOTALS	100.00% 303	100.00% 97	100.00% 400
Q. 73 DO YOU NOW OR HAVE YOU EVER BELONGED TO A MEXICAN UNION			
YES	.99% 3	-	.75% 3
NO	98.68% 299	100.00% 97	99.00% 396
NO ANSWER	.33% 1	-	.25% 1
TOTALS	100.00% 303	100.00% 97	100.00% 400

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T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

	MALE	FEMALE	TOTAL
Q.74 HAVE YOU EVER PARTICIPATED IN FORMING A STRIKE			
YES IN U.S.	3.67% 11	-	2.78% 11
YES IN MEXICO	2.33% 7	1.05% 1	2.03% 8
NO	94.00% 282	98.95% 94	95.19% 376
TOTALS	100.00% 300	100.00% 95	100.00% 395
Q.75 HAVE YOU EVER PARTICIPATED IN BREAKING A STRIKE			
NO	100.00% 299	100.00% 96	100.00% 395
TOTALS	100.00% 299	100.00% 96	100.00% 395
Q.76 WHAT PART OF YOUR MONEY DO YOU SPEND IN THE U.S.			
ABOUT ONE FOURTH	11.33% 34	10.42% 10	11.11% 44
ABOUT ONE HALF	38.00% 114	31.25% 30	36.36% 144
ABOUT THREE FOURTH	49.33% 148	54.17% 52	50.51% 200
ALL	1.33% 4	4.17% 4	2.02% 8
TOTALS	99.99% 300	100.01% 96	100.00% 396

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T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

	MALE	FEMALE	TOTAL
Q. 77 HAVE YOU EVER TRIED TO COLLECT SOCIAL SECURITY IN THE U.S.			
YES BUT FAILED	.99% 3	-	.75% 3
YES AND COLLECTED	1.32% 4	-	1.00% 4
NO	97.69% 296	100.00 97	98.25% 393
TOTALS	100.00% 303	100.00% 97	100.00% 400
Q. 78 HAVE YOU EVER TRIED TO COLLECT FOOD STAMPS IN THE U.S.			
YES BUT FAILED	.99% 3	-	.75% 3
YES BUT STILL PENDING	.33% 1	-	.25% 1
YES AND COLLECTED	2.64% 8	3.09% 3	2.75% 11
NO	96.04% 291	96.91% 94	96.25% 385
TOTALS	100.00% 303	100.00% 97	100.00% 400
Q. 80 HAVE YOU EVER TRIED TO COLLECT UNEMPLOYMENT COMPENSATION			
YES BUT FAILED	2.31% 7	-	1.75% 7
YES AND COLLECTED	13.86% 42	9.28% 9	12.75% 51
NO	83.83% 254	90.72% 88	85.50% 342
TOTALS	100.00% 303	100.00% 97	100.00% 400

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T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

	MALE	FEMALE	TOTAL
Q.81 HAVE YOU EVER TRIED TO COLLECT VETERANS BENEFITS IN THE U.S.			
YES BUT STILL PENDING	.66% 2	-	.50% 2
NO	99.34% 301	100.00% 97	99.50% 398
TOTALS	100.00% 303	100.00% 97	100.00% 400
Q.82 HAVE YOU EVER TRIED TO COLLECT WELFARE BENEFITS IN MEXICO			
YES BUT STILL PENDING	.99% 3	1.03% 1	1.00% 4
YES AND COLLECTED	.66% 2	-	.50% 2
NO	98.35% 298	98.97% 96	98.50% 394
TOTALS	100.00% 303	100.00% 97	100.00% 400
Q.83 HAVE YOU EVER TRIED TO COLLECT TEMPORARY DISABILITY BENEFITS IN CALIFORNIA			
YES BUT FAILED	3.73% 5	3.57% 1	3.70% 6
YES BUT STILL PENDING	.75% 1	-	.62% 1
YES AND COLLECTED	8.21% 11	10.71% 3	8.64% 14
NO	87.31% 117	85.71% 24	87.04% 141
TOTALS	100.00% 134	99.99% 28	100.00% 162

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T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

	MALE	FEMALE	TOTAL
Q.84 YOU ARE NOW LIVING IN MEXICO,WOULD YOU RATHER LIVE IN THE U.S.			
YES	79.21% 240	80.41% 78	79.50% 318
NO	20.79% 63	19.59% 19	20.50% 82
TOTALS	100.00% 303	100.00% 97	100.00% 400
Q.85 WHY AREN'T YOU LIVING THERE			
CAN'T AFFORD TO	33.99% 103	39.18% 38	35.25% 141
SHORTAGE OF HOUSING	3.96% 12	9.28% 9	5.25% 21
WHOLE FAMILY CAN'T GO	22.11% 67	14.43% 14	20.25% 81
COMBINATION OF 1, 2, 3	14.52% 44	13.40% 13	14.25% 57
OTHER	5.28% 16	5.15% 5	5.25% 21
NO ANSWER	20.13% 61	18.56% 18	19.75% 79
TOTALS	99.99% 303	100.00% 97	100.00% 400

SEPTEMBER 13, 1969

T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

	MALE	FEMALE	TOTAL
Q. 87 DO YOU VOTE IN MEXICO ELECTIONS			
YES	14.85% 45	5.15% 5	12.50% 50
NO	85.15% 258	94.85% 92	87.50% 350
TOTALS	100.00% 303	100.00% 97	100.00% 400
Q. 91 HAVE YOU EVER TRIED TO GET GREEN CARDS FOR OTHER MEMBERS OF YOUR FAMILY			
YES	33.22% 100	29.47% 28	32.32% 128
NO	66.78% 201	70.53% 67	67.68% 268
TOTALS	100.00% 301	100.00% 95	100.00% 396
Q. 92 STATUS OF GREEN CARD APPLICATION			
APPLICATION STILL PENDING	47.12% 49	44.44% 12	46.56% 61
TURNED DOWN	45.19% 47	48.15% 13	45.80% 60
RECEIVED	7.69% 8	7.41% 2	7.63% 10
TOTALS	100.00% 104	100.00% 27	99.99% 131

SEPTEMBER 13, 1969

T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

	MALE	FEMALE	TOTAL
Q.93 WHEN DID YOU RECEIVE YOUR GREEN CARD			
BEFORE 1930	1.98% 6	1.03% 1	1.75% 7
DURING THE THIRTYS	.33% 1	1.03% 1	.50% 2
1940 - 1945	1.98% 6	5.15% 5	2.75% 11
1946 - 1950	2.64% 8	3.09% 3	2.75% 11
1951 - 1955	13.86% 42	18.56% 18	15.00% 60
1956 - 1960	20.79% 63	20.62% 20	20.75% 83
1961 - 1962	18.48% 56	6.19% 6	15.50% 62
1963 - 1964	21.78% 66	20.62% 20	21.50% 86
1965 - 1966	10.89% 33	14.43% 14	11.75% 47
1967	6.60% 20	9.28% 9	7.25% 29
1968 - 1969	.66% 2	-	.50% 2
TOTALS	99.99% 303	100.00% 97	100.00% 400

SEPTEMBER 13, 1969

T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

	MALE	FEMALE	TOTAL
Q.97 DID ANYONE IN THE U.S. HELP YOU MAKE THE APPLICATION			
YES	70.47% 210	62.50% 60	68.53% 270
NO	29.53% 88	37.50% 36	31.47% 124
TOTALS	100.00% 298	100.00% 96	100.00% 394
Q.98 WHO HELPED YOU SECURE YOUR GREEN CARD			
LAWYER	1.32% 3	3.13% 2	1.72% 5
A FRIEND IN THE U.S.	10.13% 23	20.31% 13	12.37% 36
A FRIEND IN MEXICO	2.20% 5	1.56% 1	2.06% 6
A RELATIVE	30.40% 69	34.38% 22	31.27% 91
IMMIGRATION CONSULTANT IN U.S.	.88% 2	1.56% 1	1.03% 3
IMMIGRATION CONSULTANT MEXICO	3.52% 8	3.13% 2	3.44% 10
EMPLOYER OR POTENTIAL EMPLOYER	46.26% 105	29.69% 19	42.61% 124
OTHER	4.85% 11	6.25% 4	5.15% 15
NO ANSWER	.44% 1	-	.34% 1
TOTALS	100.00% 227	100.01% 64	99.99% 291

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TRANS CENTURY

GREEN CARD COMMUTERS

	MALE	FEMALE	TOTAL
Q.99 DID YOU PAY ANYONE TO HELP GET THE CARD			
YES	23.73% 70	21.74% 20	23.26% 90
NO	76.27% 225	78.26% 72	76.74% 297
TOTALS	100.00% 295	100.00% 92	100.00% 387
Q.100 HOW MUCH DID YOU PAY IN U.S. DOLLARS			
UNDER $100	50.68% 37	65.22% 15	54.17% 52
$100 - $200	39.73% 29	21.74% 5	35.42% 34
$200 - $300	5.48% 4	8.70% 2	6.25% 6
$300 - $400	4.11% 3	4.35% 1	4.17% 4
TOTALS	100.00% 73	100.01% 23	100.01% 96
Q.101 DO YOU HAVE A SOCIAL SECURITY CARD			
YES	99.34% 300	97.92% 94	99.00% 394
NO	.66% 2	2.08% 2	1.01% 4
TOTALS	100.00% 302	100.00% 96	100.01% 398

SEPTEMBER 13, 1969

TRANS CENTURY

GREEN CARD COMMUTERS

	MALE	FEMALE	TOTAL
Q. 104 BEFORE YOU GOT YOUR GREEN CARD HAD YOU BEEN IN THE U.S.			
YES	53.47% 162	50.52% 49	52.75% 211
NO	46.53% 141	49.48% 48	47.25% 189
TOTALS	100.00% 303	100.00% 97	100.00% 400
Q. 105 HAD YOU EVER BEEN IN THE U.S. BEFORE AS A			
BRACERO	51.53% 84	24.00% 12	45.07% 96
STUDENT	3.68% 6	4.00% 2	3.76% 8
VISITOR	17.79% 29	30.00% 15	20.66% 44
WORKER WITHOUT PAPERS	9.82% 16	22.00% 11	12.68% 27
BRACERO AND ILLEGAL	6.14% 10	4.00% 2	5.63% 12
BRACERO AND VISITOR	5.52% 9	4.00% 2	5.16% 11
VISITOR AND ILLEGAL	1.84% 3	4.00% 2	2.35% 5
STUDENT AND OTHER REASON	1.23% 2	6.00% 3	2.35% 5
OTHER	2.45% 4	2.00% 1	2.35% 5
TOTALS	100.00% 163	100.00% 50	100.01% 213

SEPTEMBER 13, 1969

T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

	MALE	FEMALE	TOTAL
Q.106 IF YOU COULD NO LONGER COMMUTE, AND HAD TO EITHER LIVE AND WORK IN MEXICO, OR LIVE AND WORK IN THE U.S., WHICH WOULD YOU CHOOSE			
U.S.A.	87.09% 263	88.42% 84	87.41% 347
MEXICO	12.91% 39	11.58% 11	12.59% 50
TOTALS	100.00% 302	100.00% 95	100.00% 397
Q.107 IF YOU COULD NO LONGER COMMUTE WHERE WOULD YOU LIVE IN MEXICO			
STAY IN THIS LOCALE	86.36% 38	93.33% 14	88.14% 52
MOVE ELSEWHERE IN MEXICO	13.64% 6	6.67% 1	11.86% 7
TOTALS	100.00% 44	100.00% 15	100.00% 59
Q.108 IF YOU WERE TO MOVE TO THE U.S. WHERE WOULD YOU LIVE			
NEAR PRESENT WORK SITE	93.21% 206	94.03% 63	93.40% 269
ELSEWHERE ALONG THE BORDER	6.79% 15	5.97% 4	6.60% 19
TOTALS	100.00% 221	100.00% 67	100.00% 288

SEPTEMBER 13, 1969

T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

	MALE	FEMALE	TOTAL
Q.109 IF YOU MOVED TO THE U.S. HOW MANY FAMILY MEMBERS WOULD COME ALONG			
1	7.60% 19	10.26% 8	8.23% 27
2	6.00 15	25.64% 20	10.67% 35
3	10.80% 27	14.10% 11	11.59% 38
4	18.00% 45	16.67% 13	17.68% 58
5	13.60% 34	7.69% 6	12.20% 40
6	14.00% 35	12.82% 10	13.72% 45
7	7.60% 19	7.69% 6	7.62% 25
8	8.40% 21	2.56% 2	7.01% 23
9	6.40% 16	-	4.88% 16
10	4.00% 10	1.28% 1	3.35% 11
11	2.40% 6	-	1.83% 6
12	1.20% 3	-	.91% 3
NO ANSWER	-	1.28% 1	.30% 1
TOTALS	100.00% 250	99.99% 78	99.99% 328

SEPTEMBER 13, 1969

TRANS CENTURY

GREEN CARD COMMUTERS

	MALE	FEMALE	TOTAL
Q.111 HOW MANY SCHOOL AGE CHILDREN WOULD ENTER U.S. SCHOOLS FOR THE FIRST TIME			
1	8.58% 26	17.53% 17	10.75% 43
2	14.19% 43	11.34% 11	13.50% 54
3	10.89% 33	13.40% 13	11.50% 46
4	13.53% 41	4.12% 4	11.25% 45
5	7.59% 23	3.09% 3	6.50% 26
6	4.29% 13	1.03% 1	3.50% 14
7	2.64% 8	-	2.00% 8
8	.33% 1	-	.25% 1
NO ANSWER	37.95% 115	49.48% 48	40.75% 163
TOTALS	99.99% 303	99.99% 97	100.00% 400
Q.112 HOW MANY PEOPLE OVER 55 WOULD BE INVOLVED			
1	9.24% 28	16.49% 16	11.00% 44
2	3.63% 11	4.12% 4	3.75% 15
NO ANSWER	87.13% 264	79.38% 77	85.25% 341
TOTALS	100.00% 303	99.99% 97	100.00% 400

SEPTEMBER 13, 1969

T R A N S C E N T U R Y

G R E E N C A R D C O M M U T E R S

	MALES	FEMALE	TOTAL
Q.113 HOW MANY CHILDREN UNDER 6 WOULD BE INVOLVED			
1	18.81% 57	17.53% 17	18.50% 74
2	20.46% 62	12.37% 12	18.50% 74
3	6.60% 20	4.12% 4	6.00% 24
4	2.97% 9	-	2.25% 9
5	.33% 1	-	.25% 1
NO ANSWER	50.83% 154	65.98% 64	54.50% 218
TOTALS	100.00% 303	100.00% 97	100.00% 400
Q.116 EVALUATION OF INTERVIEWEES HOUSE			
ELECTRICITY AND WATER	83.00% 249	82.47% 80	82.87% 329
WATER BUT NO ELECTRICITY	.67% 2	1.03% 1	.76% 3
ELECTRICITY BUT NO WATER	8.67% 26	11.34% 11	9.32% 37
NEITHER	.67% 2	-	.50% 2
NO ANSWER	7.00% 21	5.15% 5	6.55% 26
TOTALS	100.01% 300	99.99% 97	100.00% 397

Senator MONDALE. We will now recess until tomorrow morning.

(Whereupon, at 12:20 p.m. the subcommittee recessed, to reconvene at 9:30 a.m., the following day, Thursday, May 22, 1969.)

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